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Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

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Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 29—TOBACCO INSPECTION

Miscellaneous Amendments

On May 17, 1963 a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 4596), stating that the Department of Agriculture had under consideration an amendment to the regulations governing the inspection of tobacco (7 CFR Part 29, Subpart B) issued pursuant to the provisions of the Tobacco Inspection Act (49 Stat. 731, 7 U.S.C. 511 et seq.).

Statement of consideration. Interested persons were given 15 days following publication in the FEDERAL REGISTER in which to submit written data, views, and arguments with respect to the proposed amendment. The amendment provides for (1) accessibility and orderly displaying of tobacco on warehouse auction floors in designated flue-cured markets, and (2) prevention of interference with, or attempting to improperly influence a tobacco inspector while grading tobacco on auction floors. The latter provision applies to all marketing areas, but the first only to flue-cured auction warehouses. In the notice of proposed rule making, the Department requested interested parties to give particular attention in their comments with respect to inclusion or exclusion of producers from the application of a provision of the proposed regulation having to do with discussions with tobacco inspectors while engaged in the grading of the producers' own tobacco. The comments strongly supported allowing the producers this privilege, and this provision is included in the regulation. The provisions of the amendments to the regulation are basically unchanged from the original proposal. However, an addition is included under both §§ 29.75 and 29.81 which states that this regulation shall not prevent the maximum number of baskets and/or pounds per day per set of buyers from being sold in a market. After consideration of all relevant matters presented by interested persons regarding the rules proposed, the following amendment to the regulations in hereby adopted:

§ 29.75 [Amendment]

1. Redesignate the present text of § 29.75 as paragraph (a) and add the following paragraphs:

(b) (1) Each warehouse operator shall block off in his warehouse adequate space for each basket of flue-cured tobacco offered for sale on the auction market, and shall prominently number each 10th basket space. The blocking and numbering arrangement shall follow the order of sale; that is, down one row and back on the adjacent row.

(2) Each warehouse shall display a plainly visible sign with the total number of baskets of flue-cured tobacco allotted to be sold each day. Each warehouse operator shall designate to the inspector the number of the starting space for each day's sale and grading will begin at this designated space. All spaces, whether empty or full, shall be counted. No tobacco will be graded beyond the numbered space corresponding with the number of baskets allotted for each day's sale. The grading shall proceed from the beginning point of the sale to the closing point of the sale in an orderly sequence. An inspector shall not go back and grade any basket of tobacco placed in a space which was empty when grading for the day's sales passed such sales space.

(c) Before starting inspection of the day's sale of flue-cured tobacco in each warehouse, the head grader or market supervisor grader shall determine if there is compliance with the requirements of paragraph (b) of this section. If he determines that the prescribed system has not been followed, the inspectors shall proceed to the next scheduled warehouse and shall return to the noncomplying warehouse on the next sales day for such warehouse when the head grader or market supervisor grader shall again determine if the prescribed system has been followed before starting the inspection.

(d) A reduction in daily sales for any warehouse resulting from noncompliance with this section, including empty spaces, shall not prevent the maximum number of baskets allotted per day per set of buyers from being sold in the market.

2. Insert a new § 29.81 to read as follows:

§ 29.81 Interference with inspectors.

(a) No person, including the owner, producer, warehouseman, agent, or employee thereof shall (1) attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or (2) impede, in any manner, an inspector while the inspector is in the process of grading tobacco on the warehouse auction floor, or (3) ask any question or discuss any matter pertaining to the grading of tobacco while the inspector is grading any tobacco on the warehouse auction floor. While inspectors are engaged in grading the day's sale, all requests for information concerning the grade designation on or requests to review the grade of any lot of tobacco shall be made only to the head grader or to the market supervisor grader; *Provided, however,* That the producer of a lot of tobacco may discuss the grading of his tobacco with the inspector while he is performing his grading operations.

(b) In the event that the head grader or market supervisor grader determines that a person has violated any provision of this section, inspection ticket(s) if already issued on the lot(s) of unsold tobacco involved shall be null and void and no further inspection shall be performed on such lot(s) offered for sale by the warehouseman in whose premises the violation occurred until the next regularly-scheduled sale for such warehouse: *Provided,* That if violation consists of talking to the inspector while he is grading the tobacco, a warning shall be given on first offense and penalty provisions shall apply on any subsequent offense. A reduction in daily sales for any warehouse resulting from a violation of this section shall not prevent the maximum number of baskets or pounds allotted per day per set of buyers from being sold in a designated market.

(c) The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the act.

(49 Stat. 734; 7 U.S.C. 511m)

This amendment to the regulations shall become effective thirty days after its publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of June 1963.

G. R. GRANGE,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 63-6450; Filed, June 17, 1963; 8:57 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[Lemon Reg. 66, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 27 F.R. 8346), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publica-

tion hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 910.366 (Lemon Regulation 66, 28 F.R. 5638) are hereby amended to read as follows:

(ii) District 2: 418,500 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 13, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63–6356; Filed, June 17, 1963; 8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55918]

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

Delegation of Authority

In order to implement the transfer of customs enforcement officers (now titled customs port investigators) and their functions from the collectors of customs to the Customs Agency Service and to more particularly define their duties and responsibilities, the following amendments are made to the Customs Regulations.

Paragraphs (c) and (e) of § 23.1 are amended to read as follows:

(c) If the collector or supervising customs agent believes that sufficient grounds exist to justify a search of any army or navy transport, the facts shall be reported to the commanding officer or master of such transport with a request that he cause a full search to be made and advise the collector or supervising customs agent of the result of such search. If, after the cargo has been discharged, passengers and their baggage landed, and the baggage of officers and crewmembers examined and passed, the collector or supervising customs agent believes that sufficient grounds exist to justfy the continuance of customs supervision of the vessel, the commanding officer of the vessel shall be advised accordingly.

(e) Collectors of customs and supervising customs agents are hereby authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended,[4] of persons, baggage, or merchandise, even though such persons, baggage, or merchandise, were inspected, examined, searched, or taken on board the vessel at another port in the United States or the Virgin Islands, if such action is deemed necessary or appropriate.

(Sec. 1, 62 Stat. 717 R.S. 3061, sec. 11, 52 Stat. 1083, secs. 1, 3–8, 49 Stat. 517, 518, 519, 520; 18 U.S.C. 546, 19 U.S.C. 482, 1467, 1701, 1703–1708)

The second paragraph of footnote 23 to Part 23 is amended to read as follows:

The function of determining the domestic value of seized property under section 606, Tariff Act of 1930 (19 U.S.C. 1606), in any case where the aggregate value of the seizure is not more than $500 has been transferred from the appraiser to the collector, and the supervising customs agent, or other officers of the Customs Agency Service designated by him, have been authorized to perform said function in any case where the aggregate value of the seizure is not more than $100 and the seizure was made by an officer of the Customs Agency Service. (T.D. 55917.)

(R.S. 161, as amended, 251, sec. 624, 46 Stat. 759; 5 U.S.C. 22, 19 U.S.C. 66, 1624)

[SEAL] PHILIP NICHOLS, Jr.,
Commissioner of Customs.

Approved: June 10, 1963.

JAMES POMEROY HENDRICK,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 63–6385; Filed, June 17, 1963; 8:57 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Penicillin Tablets

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for the certification of penicillin tablets are amended to provide for a longer disintegration time, under certain specified conditions.

Section 146a.27 *Penicillin tablets,* is amended by changing the sixth sentence of paragraph (a) to read: "Tablets not exceeding 15 millimeters, or not intended only for preparing solutions shall disintegrate within 1 hour, unless the manufacturer has submitted blood-concentration data adequate to prove that his drug is absorbed satisfactorily from the gastrointestinal tract and such data have been accepted by the Commissioner. In such cases, the time required for the tablets to disintegrate shall not exceed that of the tablets used in such studies."

Notice and public procedure and delayed effective date are not necessary prerequisites to the promulgation of this order, and I so find, since the amendment relaxes existing requirements under certain specified conditions.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: June 12, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63–6348; Filed, June 17, 1963; 8:47 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER G—INTERNATIONAL EDUCATIONAL EXCHANGE SERVICE

[Dept. Reg. 108.496]

PART 61—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE INTERNATIONAL EDUCATIONAL EXCHANGE PROGRAM

Grants to Foreign Participants To Observe, Consult, or Demonstrate Special Skills

In § 61.3 *Grants to foreign participants to observe, consult, or demonstrate special skills,* paragraph (c) is amended to read as follows:

(c) *Per diem allowances.* Per diem allowance not to exceed $20 in lieu of subsistence expenses while participating in the program in the United States, its territories or possessions and while travelling within or between the United States, its territories or possessions: *Provided, however,* That, in accordance with standards and procedures prescribed from time to time by the Assistant Secretary of State for Educational and Cultural Affairs, a per diem allowance of not to exceed $35 may be established in the case of participants whose status and position require special treatment; *And provided further,* That the Assistant Secretary of State for Educational and Cultural Affairs may in the case of any particular participant authorize a per diem allowance in excess of $35.

For the Secretary of State.

WILLIAM J. CROCKETT,
Assistant Secretary for Administration.

JUNE 6, 1963.

[F.R. Doc. 63–6365; Filed, June 17, 1963; 8:50 a.m.]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 21—PUBLIC LANDS; MILITARY AND NAVAL RESERVATIONS

Quarry Heights Military Reservation, Canal Zone

CROSS REFERENCE: For regulations regarding the above military reservation, see Canal Zone Order No. 65, in Appendix to this chapter, *infra.*

APPENDIX—CANAL ZONE ORDERS

[Order 65]

QUARRY HEIGHTS MILITARY RESERVATION, CANAL ZONE

By virtue of the authority vested in the President by section 31 of Title 2 of the Canal Zone Code, approved October 18, 1962, 76A Stat. 7, and delegated to me by Executive Order No. 9746 of July 1, 1946 as amended by Executive Order No. 10595 of February 7, 1955 (which delegations of authority were preserved by section 19 of the Act of October 18, 1962, Public Law 87–845, 76A Stat. 700), it is ordered as follows:

SECTION 1. *Setting apart of reservation; boundaries.* The area of land in the Canal Zone hereinafter described is hereby reserved and set apart as, and assigned to the uses and purposes of, a military reservation, which shall be known as Quarry Heights Military Reservation, and shall be under the control and jurisdiction of the Secretary of the Army subject to the provisions of section 3 of this order:

Beginning at a 4-inch square brass plate, engraved QHMR No. 1, in a 10-inch square concrete monument marked No. 1 on Panama Canal Company drawing No. 6121–23, located on the southerly side of Edwards Place and 25.0 feet at right angles from the face of the northerly curb of Balboa Road. The geodetic position of monument No. 1, referred to the Panama-Colon datum of the Canal Zone triangulation system, is in latitude 8°57′ N. plus 1171.7 feet and longitude 79°33′ W. plus 1502.1 feet from Greenwich.

Thence from said initial point by metes and bounds:

N. 74°06′ W., 463.2 feet, along the southerly edge of Edwards Place, to a monument marked No. 2 on the drawing, which is an 8-inch square concrete monument, located 10 feet, more or less, in a northwesterly direction from the westerly turn-around circle marking the termination of Edwards Place.

S. 45°12′59″ W., 100.23 feet, to a point called R–1 on the drawing, which is a galvanized iron pipe set in concrete, located 12-inches, more or less, from the easterly edge of a concrete drive.

S. 12°07′27″ W., 59.84 feet to a point called R–2 on the drawing, which is a brass plug in the gutter, marking the back of the curb of the northerly edge of Morgan Avenue.

Northwesterly, northeasterly and northwesterly, following along the back of the curb on the easterly and northerly edge of Morgan Avenue to an iron rod in concrete called 8–7 on the drawing, located at the back of the curb. The geodetic position of this iron rod is in latitude 8°57′ N. plus 2263.4 feet and longitude 79°33′ W. plus 2095.7 feet.

N. 42°55′40″ E., 85.0 feet, to an iron rod set in concrete, called 8–1 on the drawing.

N. 47°04′20″ W., 246.0 feet, through monuments 8–2 and 8–3, which are iron rods set in concrete, to monument 8–4, which is an iron rod set in concrete, the distances being 176.0 feet, 40.0 feet and 30.0 feet, successively, from beginning of the course.

S. 42°55′40″ W., 87.9 feet, to an iron rod set in concrete, called 8–5 on the drawing, located at the back of the curb at the northerly edge of Morgan Avenue. The geodetic position of this iron rod is in latitude 8°57′ N. plus 2428.8 feet and longitude 79°33′ W. plus 2277.8 feet.

Northwesterly, along the back of the above mentioned curb, to a brass plug called R–3 on the drawing, located at the back of the above mentioned curb. The geodetic position of this brass plug is in latitude 8°57′ N. plus 2522.3 feet and longitude 79°33′ W. plus 2497.7 feet.

N. 45°28′44″ W., 175.6 feet, to an iron rod set in concrete, called R–4 on the drawing.

N. 22°40′14″ W., 418.2 feet, to a galvanized iron pipe set in concrete, called R–5 on the drawing.

N. 22°50′31″ E., 278.5 feet, to a galvanized iron pipe set in concrete, called R–6 on the drawing.

S. 77°39′59″ E., 340.5 feet, to a galvanized iron pipe set in concrete, called R–7 on the drawing.

S. 67°47′29″ E., 40.4 feet, to a brass plug called R–8 on the drawing, set in the northerly curb of a concrete sidewalk leading from Morgan Avenue to Ridge Road.

S. 80°42′44″ E., 121.3 feet, following along the curb of the above mentioned sidewalk, to a brass plug called R–9 on the drawing, set in the curb.

Following the curb of the above mentioned sidewalk, on a curve to the right, to a brass plug called R–10 on the drawing, set in the curb. The direct bearing and distance of the chord of this curve is S. 61°17′14″ W., 48.0 feet.

Following the curb of the above mentioned sidewalk, on a curve to the left, to a brass plug called R–11 on the drawing, set in the curb. The direct bearing and distance of the chord to this curve is N. 72°51′46″ E., 44.2 feet.

S. 81°11′44″ E., 164.8 feet, to a galvanized iron pipe set in concrete, called 7–A on the drawing, located on the 150 foot contour of Ancon Hill.

Northerly, northeasterly and northerly along the 150-foot contour to a monument marked No. 8 on the drawing, in latitude 8°57′ N. plus 3487.7 feet and longitude 79°33′ W. plus 1742.6 feet. The direct bearing and distance from monument No. 7–A to monument No. 8 is N. 29°46′ E., 395 feet.

S. 76°39′ E., 301.8 feet, through two brass markers where the boundary crosses the intersection of Prospect Street and Quarry Road, to an iron rod set in concrete, marked Monument A on the drawing.

N. 6°05′ E., 359.3 feet, to a brass plug in a concrete slab, marked "B" on the drawing, in latitude 8°57′ N. plus 3775.7 feet and longitude 79°33′ W. plus 1411.2 feet.

N. 6°18′30″ E., 181.2 feet, to a galvanized iron pipe in concrete, marked "E" on the drawing.

N. 9°23′00″ E., 118.4 feet, to a galvanized iron pipe in concrete, marked "F" on the drawing.

N. 13°05′30″ E., 234.2 feet, to a 6-inch square concrete monument, marked "I" on the drawing.

N. 39°18′26″ E., 260.2 feet, to a 6-inch square concrete monument, marked "M" on the drawing, located on the 325-foot contour of Ancon Hill, and is in latitude 8°57′ N. plus 4501.9 feet and longitude 79°33′ W. plus 1153.8 feet.

Northerly, along the 325-foot contour, to a brass plate in a 10-inch square concrete monument, marked No. 11 on the drawing, in latitude 8°57′ N. plus 4748.4 feet and longitude 79°33′ W. plus 1011.7 feet. The direct bearing and distance from monument "M" to No. 11 is N. 29°57′44″ E., 284.5 feet.

Easterly and southeasterly, along the 325-foot contour, to a 10-inch square concrete monument, marked No. 12 on the drawing, in latitude 8°57′ N. plus 4531.5 feet and longitude 79°33′ W. plus 528.5 feet. The direct bearing and distance from No. 11 to No. 12 is S. 65°49′ E., 529.7 feet.

Southerly, easterly and southeasterly, along the 325-foot contour, to a 10-inch square concrete monument, marked No. 13 on the drawing, in latitude 8°57′ N. plus 4209.0 feet and longitude 79°33′ W. plus 325.5 feet. The direct bearing and distance from monument No. 12 to No. 13 is S. 32°11′ E., 381.0 feet.

Southerly, along the 325-foot contour, to a 10-inch square concrete monument, marked No. 14 on the drawing, in latitude 8°57′ N. plus 3931.2 feet and longitude 79°33′ W. plus 400.2 feet. The direct bearing and distance from monument No. 13 to No. 14 is S. 15°03′ W., 287.6 feet.

Southeasterly and southerly, along the 325-foot contour, to a 10-inch square concrete monument, marked No. 15 on the drawing, in latitude 8°57′ N. plus 3712.2 feet and longitude 79°33′ W. plus 237.6 feet. The direct bearing and distance from monument No. 14 to No. 15 is S. 36°55′ E., 272.8 feet.

S. 12°16′ E., 1142.8 feet, through concrete monuments 10 inches square, marked No. 16 and No. 17 on the drawing, to a 10-inch square concrete monument marked No. 18 on the drawing, in latitude 8°57′ N. plus 2595.5 feet and longitude 79°32′ W. plus 6008.1 feet. The distances are 643.7 feet, 261.7 feet and 237.4 feet, successively from beginning of the course.

S. 55°40′ E., 46.7 feet, to a 10-inch square concrete monument marked No. 19 on the drawing, in latitude 8°57′ N. plus 2569.1 feet, and longitude 79°32′ W., plus 5969.5 feet.

Southeasterly, along a cyclone fence, to a galvanized iron pipe, marked No. 20 on the drawing, located 6 inches on the outside of a cyclone fence and seven feet, more or less, northwesterly from the face of the northwesterly curb of 4th of July Avenue and is in latitude 8°57′ N. plus 2310.7 feet and longitude 79°32′ W. plus 5595.9 feet. The direct bearing and distance from monument No. 19 to No. 20 is S. 55°19′26″ E., 454.3 feet.

S. 35°12′30″ W., 81.5 feet, following six inches along the outside of the above mentioned cyclone fence, to a galvanized iron pipe set in concrete, marked No. 21 on the drawing.

S. 36°39′55″ W., 157.1 feet, to a galvanized iron pipe set in concrete, marked No. 22 on the drawing.

S. 36°39′35″ W., 98.2 feet, crossing the entrance to Quarry Heights Military Reservation, to a brass plug marked No. 23 on the drawing, located in the concrete base of a fence post of the above mentioned cyclone fence.

S. 36°38′40″ W., 298.0 feet, to a brass plug, marked No. 24 on the drawing, located six inches from the outside of the above mentioned cyclone fence and in the lip of a concrete half-round drainage ditch.

S. 39°55′30″ W., 70.0 feet, to a galvanized iron pipe set in concrete, marked No. 25 on the drawing, located six inches on the outside of the above mentioned cyclone fence.

S. 36°47′00″ W., 304.6 feet, to a galvanized iron pipe set in concrete, marked No. 26 on the drawing.

S. 24°04′13″ W., 19.9 feet, to a galvanized iron pipe set in concrete, marked No. 27 on the drawing.

S. 37°47′37″ W., 303.7 feet, to a galvanized iron pipe set in concrete, marked No. 28 on the drawing, located six inches from a corner post of the above mentioned cyclone fence.

S. 65°37′05″ W., 91.4 feet, to a galvanized iron pipe set in concrete, marked No. 29 on the drawing, located six inches on the outside of the above mentioned cyclone fence and is 25 feet northerly from the northerly face of the curb of Balboa Road.

S. 74°54′45″ W., 69.1 feet, to a brass plug marked No. 30 on the drawing, located six inches on the outside of the above mentioned cyclone fence, in the concrete base of a fence post, 24.6 feet northerly from the face of the curb on the northerly side of Balboa Road.

N. 89°25′40″ W., 100.1 feet, to a brass plug, marked No. 31 on the drawing, located six inches from the above mentioned cyclone fence and is 14.3 feet northerly from the northerly face of the curb of Balboa Road.

N. 84°34′20″ W., 179.6 feet, to a brass plug marked No. 32 on the drawing, located six

inches from the above mentioned cyclone fence and is 24.5 feet northerly from the northerly face of the curb of Balboa Road, in latitude 8°57′ N. plus 1206.9 feet and longitude 79°33′ W. plus 844.4 feet.

Southwesterly, following 25 feet northerly from and parallel to the northerly face of the curb of Balboa Road, to monument No. 1, the point of beginning.

The directions of the lines refer to the true meridian.

The above described tract contains an area of 144.7 acres, more or less, and is as shown on Panama Canal Company drawing No. 6121–23, entitled "Map Showing Quarry Heights Military Reservation", scale 1:2000, dated February 12, 1963, on file in the Office of the Governor, Balboa Heights, Canal Zone.

SEC. 2. *Deferred transfer of Parcel "X".* Effective October 1, 1964 the following area, designated as Parcel "X" on the above mentioned drawing, shall become a part of the Quarry Heights Military Reservation:

Beginning at an iron rod in concrete, called 8–7 on the drawing, located at the back of the curb on the northeasterly edge of Morgan Avenue and which is in latitude 8°57′ N. plus 2263.4 feet and longitude 79°33′ W. plus 2095.7 feet.

Thence from said initial point by metes and bounds:

N. 42°55′40″ E., 85.0 feet, to an iron rod set in concrete, called 8–1 on the drawing.

N. 47°04′20″ W., 246.0 feet, through monuments 8–2 and 8–3, which are iron rods set in concrete, to monument 8–4, which is an iron rod set in concrete, the distances being 176.0 feet, 40.0 feet and 30.0 feet, successively, from the beginning of the course.

S. 42°55′40″ W., 87.9 feet, to an iron rod set in concrete, called 8–5 on the drawing, located at the back of the curb at the northerly edge of Morgan Avenue. The geodetic position of this iron rod is in latitude 8°57′ N. plus 2428.8 feet and in longitude 79°33′ W. plus 2277.8 feet.

Southeasterly on a curve to the right along the back of the above mentioned curb, through an iron rod in concrete, called 8–6 on the drawing to an iron rod in concrete called 8–7, on the drawing, located at the back of the above mentioned curb, the point of beginning. The true bearings and distances of the chords to this curve are S. 51°01′20″ E., 43.1 feet and S. 47°04′20″ E., 203.0 feet successively from the beginning of the course.

The area of the above described Parcel "X" is 0.48 acres.

SEC. 3. *Conditions and limitations.* The reservation established by section 1 of this order shall be subject to the following conditions and limitations:

(a) The areas comprising this reservation shall continue to be subject to the civil jurisdiction of the Canal Zone Government in conformity with the provisions of the Canal Zone Code as amended and supplemented.

(b) The Canal Zone Government and the Panama Canal Company, their agents, employees, contractors, licensees, and permittees shall enjoy access to the reserved area in carrying out the operations of such agencies, subject, however, to necessary security measures.

(c) The concrete walk known as the "Orchid Trail", shown on drawing 6121–23 as following the boundary of the reservation from the point marked R–5 to the point marked R–11, shall remain open to the public and be maintained and made available to pedestrian traffic.

SEC. 4. *Orders superseded.* This order supersedes Executive Order 9293 of January 2, 1943, 8 F.R. 222. Any lands included within Quarry Heights Military Reservation as set out by Executive Order 9293 and not included within the area described by this order are hereby released and returned to the jurisdiction and control of the Canal Zone Government.

CYRUS R. VANCE,
Secretary of the Army.

JUNE 10, 1963.

[F.R. Doc. 63–6338; Filed, June 17, 1963; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Nanticoke River, Del. and Lewis River, Wash.

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 is hereby amended with respect to paragraph (f) by adding a new subparagraph (13–a) to govern the operation of the Pennsylvania Railroad Company bridge across Nanticoke River, Delaware, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.* * * *

(13–a) Nanticoke River, Del.; Pennsylvania Railroad Company bridge at Seaford. From May 1, to September 30, inclusive, between the hours of 8:00 p.m. and 8:00 a.m., the draw will not be required to be opened. From October 1, to April 30, inclusive, the draw will not be required to be opened except on 4 hours' advance notice. From May 1, to September 30, inclusive, between the hours of 8:00 a.m. and 8:00 p.m., inclusive, the regulations contained in § 203.240 shall govern operation of this bridge.

* * * * * *

[Regs., June 5, 1963, 1507–32 (Nanticoke River, Del.)—ENGCW–ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

2. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.765 governing the operation of bridges across Cowlitz and Lewis Rivers, Washington, is hereby amended with respect to paragraph (b) (1) to permit the Northern Pacific Railway Company bridge across Lewis River, Washington, to remain in a closed position, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.765 Cowlitz and Lewis Rivers, Wash.; bridges.

* * * * *

(b) *Special regulations—(1) Northern Pacific Railway Company bridge across Lewis River.* The draw of the bridge need not be opened for the passage of vessels, and paragraph (a) of this section shall not apply to this bridge.

(2) *Cowlitz River; highway bridge at Allen Street, Kelso, Wash.* * * *

[Regs., May 31, 1963, 1507–32 (Lewis River, Wash.)—ENGCW–ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 63–6340; Filed, June 17, 1963; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; SELF-EMPLOYED INDIVIDUALS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 2 (in part), 3, and 4 of the Self-Employed Individuals Tax Retirement Act of 1962 (76 Stat. 815, 819, 821), such regulations are amended as follows:

PARAGRAPH 1. Section 1.72 is amended by revising section 72(d)(2), by redesignating subsection (m) of section 72 as subsection (o) and inserting after subsection (l) new subsections (m) and (n), and by adding a historical note. These amended and added provisions read as follows:

§ 1.72 Statutory provisions; annuities; certain proceeds of endowment and life insurance contracts.

SEC. 72. *Annuities; certain proceeds of endowment and life insurance contracts.* * * *

(d) *Employees' annuities.* * * *

(2) *Special rules for application of paragraph (1).* For purposes of paragraph (1)—

(A) If the employee died before any amount was received as an annuity under the contract, the words "receivable by the employee" shall be read as "receivable by a beneficiary of the employee"; and

(B) Any contribution made with respect to the contract while the employee is an employee within the meaning of section 401(c)(1) which is not allowed as a deduction under section 404 shall be treated as consideration for the contract contributed by the employee.

* * * * *

(m) *Special rules applicable to employee annuities and distributions under employee plans*—(1) *Certain amounts received before annuity starting date.* Any amounts received under an annuity, endowment, or life insurance contract before the annuity starting date which are not received as an annuity (within the meaning of subsection (e)(2)) shall be included in the recipient's gross income for the taxable year in which received to the extent that—

(A) Such amounts, plus all amounts theretofore received under the contract and includible in gross income under this paragraph, do not exceed

(B) The aggregate premiums or other consideration paid for the contract while the employee was an owner-employee which were allowed as deductions under section 404 for the taxable year and all prior taxable years.

Any such amounts so received which are not includible in gross income under this paragraph shall be subject to the provisions of subsection (e).

(2) *Computation of consideration paid by the employee.* In computing—

(A) The aggregate amount of premiums or other consideration paid for the contract for purposes of subsection (c)(1)(A) (relating to the investment in the contract),

(B) The consideration for the contract contributed by the employee for purposes of subsection (d)(1) (relating to employee's contributions recoverable in 3 years), and

(C) The aggregate premiums or other consideration paid for purposes of subsection (e)(1)(B) (relating to certain amounts not received as an annuity),

any amount allowed as a deduction with respect to the contract under section 404 which was paid while the employee was an employee within the meaning of section 401(c)(1) shall be treated as consideration contributed by the employer, and there shall not be taken into account any portion of the premiums or other consideration for the contract paid while the employee was an owner-employee which is properly allocable (as determined under regulations prescribed by the Secretary or his delegate) to the cost of life, accident, health, or other insurance.

(3) *Life insurance contracts.* (A) This paragraph shall apply to any life insurance contract—

(i) Purchased as a part of a plan described in section 403(a), or

(ii) Purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) if the proceeds of such contract are payable directly or indirectly to a participant in such trust or to a beneficiary of such participant.

(B) Any contribution to a plan described in subparagraph (A)(i) or a trust described in subparagraph (A)(ii) which is allowed as a deduction under section 404, and any income of a trust described in subparagraph (A)(ii), which is determined in accordance with regulations prescribed by the Secretary or his delegate to have been applied to purchase the life insurance protection under a contract described in subparagraph (A), is includible in the gross income of the participant for the taxable year when so applied.

(C) In the case of the death of an individual insured under a contract described in subparagraph (A), an amount equal to the cash surrender value of the contract immediately before the death of the insured shall be treated as a payment under such plan or a distribution by such trust, and the excess of the amount payable by reason of the death of the insured over such cash surrender value shall not be includible in gross income under this section and shall be treated as provided in section 101.

(4) *Amounts constructively received*—(A) *Assignments or pledges.* If during any taxable year an owner-employee assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a trust described in section 401(a) which is exempt from tax under section 501(a) or any portion of the value of a contract purchased as part of a plan described in section 403(a), such portion shall be treated as having been received by such owner-employee as a distribution from such trust or as an amount received under the contract.

(B) *Loans on contracts.* If during any taxable year, an owner-employee receives, directly or indirectly, any amount from any insurance company as a loan under a contract purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) or purchased as part of a plan described in section 403(a), and issued by such insurance company, such amount shall be treated as an amount received under the contract.

(5) *Penalties applicable to certain amounts received by owner-employees.* (A) *This* paragraph shall apply—

(i) To amounts (other than any amount received by an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which is in the nature of a dividend or similar distribution) which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) and which are received by an individual, who is, or has been, an owner-employee, before such individual attains the age of 59½ years, for any reason other than the individual's becoming disabled (within the meaning of section 213(g)(3)), but only to the extent that such amounts are attributable to contributions paid on behalf of such individual (whether or not paid by him) while he was an owner-employee,

(ii) To amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by an individual who is, or has been, an owner-employee, or by the successor of such individual, but only to the extent that such amounts are determined, under regulations prescribed by the Secretary or his delegate, to exceed the benefits provided for such individual under the plan formula, and

(iii) To amounts which are received, by an individual who is, or has been, an owner-employee, by reason of the distribution under the provisions of section 401(e)(2)(E) of his entire interest in all qualified trusts described in section 401(a) and in all plans described in section 403(a).

(B)(i) If the aggregate of the amounts to which this paragraph applies received by any person in his taxable year equals or exceeds $2,500, the increase in his tax for the taxable year in which such amounts are received and attributable to such amounts shall not be less than 110 percent of the aggregate increase in taxes, for the taxable year and the 4 immediately preceding taxable years, which would have resulted if such amounts had been included in such person's gross income ratably over such taxable years.

(ii) If deductions have been allowed under section 404 for contributions paid on behalf of the individual while he is an owner-employee for a number of prior taxable years less than 4, clause (i) shall be applied by taking into account a number of taxable years immediately preceding the taxable year in which the amount was so received equal to such lesser number.

(C) If subparagraph (B) does not apply to a person for the taxable year, the increase in tax of such person for the taxable year attributable to the amounts to which this paragraph applies shall be 110 percent of such increase (computed without regard to this subparagraph).

(D) Subpargraph (A)(ii) of this paragraph shall not apply to any amount to which section 402(a)(2) or 403(a)(2) applies.

(E) For special rules for computation of taxable income for taxable years to which this paragraph applies, see subsection (n)(3).

(6) *Owner-employee defined.* For purposes of this subsection, the term "owner-employee" has the meaning assigned to it by section 401(c)(3).

(n) *Treatment of certain distributions with respect to contributions by self-employed individuals*—(1) *Application of subsection*—(A) *Distributions by employees' trust.* Subject to the provisions of subparagraph (C), this subsection shall apply to amounts distributed to a distributee, in the case of an employees' trust described in section 401(a) which is exempt from tax under section 501(a), if the total distributions payable to the distributee with respect to an employee are paid to the distributee within one taxable year of the distributee—

(i) On account of the employee's death,

(ii) After the employee has attained the age of 59½ years, or

(iii) After the employee has become disabled (within the meaning of section 213(g)(3)).

(B) *Annuity plans.* Subject to the provisions of subparagraph (C), this subsection shall apply to amounts paid to a payee, in the case of an annuity plan described in section 403(a), if the total amounts payable to the payee with respect to an employee are paid to the payee within one taxable year of the payee—

(i) On account of the employee's death,

(ii) After the employee has attained the age of 59½ years, or

(iii) After the employee has become disabled (within the meaning of section 213(g)(3)).

(C) *Limitations and exceptions.* This subsection shall apply—

(i) Only with respect to so much of any distribution or payment to which (without regard to this subparagraph) subparagraph (A) or (B) applies as is attributable to contributions made on behalf of an employee while he was an employee within the meaning of section 401(c)(1), and

(ii) If the recipient is the employee on whose behalf such contributions were made, only if contributions which were allowed as a deduction under section 404 have been made on behalf of such employee while he was an employee within the meaning of section 401(c)(1) for 5 or more taxable years prior to the taxable year in which the total distributions payable or total amounts payable, as the case may be, are paid.

This subsection shall not apply to amounts described in clauses (ii) and (iii) of subparagraph (A) of subsection (m)(5) (but, in the case of amounts described in clause (ii) of such subparagraph, only to the extent that subsection (m)(5) applies to such amounts).

(2) *Limitation of tax.* In any case to which this subsection applies, the tax attributable to the amounts to which this subsection applies for the taxable year in which such amounts are received shall not exceed whichever of the following is the greater:

(A) 5 times the increase in tax which would result from the inclusion in gross income of the recipient of 20 percent of so much of the amount so received as is includible in gross income, or

(B) 5 times the increase in tax which would result if the taxable income of the recipient for such taxable year equaled 20 percent of the amount of the taxable income of the recipient for such taxable year determined under paragraph (3)(A).

(3) *Determination of taxable income.* Notwithstanding section 63 (relating to definition of taxable income), for purposes only of computing the tax under this chapter attributable to amounts to which this subsection or subsection (m)(5) applies and which are includible in gross income—

(A) The taxable income of the recipient for the taxable year of receipt shall be treated as being not less than the amount by which (i) the aggregate of such amounts so includible in gross income exceeds (ii) the amount of the deductions allowed for such taxable year under section 151 (relating to deductions for personal exemptions); and

(B) In making ratable inclusion computations under paragraph (5)(B) of subsection (m), the taxable income of the recipient for each taxable year involved in such ratable inclusion shall be treated as being not less than the amount required by such paragraph (5)(B) to be treated as includible in gross income for such taxable year.

In any case in which the preceding sentence results in an increase in taxable income for any taxable year, the resulting increase in the taxes imposed by section 1 or 3 for such taxable year shall not be reduced by any credit under part IV of subchapter A (other than section 31 thereof) which, but for this sentence, would be allowable.

(o) *Cross reference.* For limitation on adjustments to basis of annuity contracts sold, see section 1021.

[Sec. 72 as amended by sec. 4 (a), (b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 821)]

PAR. 2. Paragraph (d) of § 1.72–1 is amended to read as follows:

§ 1.72–1 Introduction.

* * * * *

(d) *"Amounts not received as an annuity".* In the case of "amounts not received as an annuity", if such amounts are received after an annuity has begun and during its continuance, amounts so received are generally includible in the gross income of the recipient. Amounts not received as an annuity which are received at any other time are generally includible in the gross income of the recipient only to the extent that such amounts, when added to all amounts previously received under the contract which were excludable from the gross income of the recipient under the income tax law applicable at the time of receipt, exceed the premiums or other consideration paid (see § 1.72–11). However, if the aggregate of premiums or other consideration paid for the contract includes amounts for which a deduction was allowed under section 404 as contributions on behalf of an owner-employee, the amounts received under the circumstances of the preceding sentence shall be includible in gross income until the amount so included equals the amount for which the deduction was so allowed. See paragraph (b) of § 1.72–17.

PAR. 3. Paragraphs (a)(1) and (c)(2) of § 1.72–6 are amended to read as follows:

§ 1.72–6 Investment in the contract.

(a) *General rule.* (1) For the purpose of computing the "investment in the contract", it is first necessary to determine the "aggregate amount of premiums or other consideration paid" for such contract. See section 72(c)(1). This determination is made as of the later of the annuity starting date of the contract or the date on which an amount is first received thereunder as an annuity. The amount so found is then reduced by the sum of the following amounts in order to find the investment in the contract:

(i) The total amount of any return of premiums or dividends received (including unrepaid loans or dividends applied against the principal or interest on such loans) on or before the date on which the foregoing determination is made, and

(ii) The total of any other amounts received with respect to the contract on or before such date which were excludable from the gross income of the recipient under the income tax law applicable at the time of receipt.

Amounts to which subdivision (ii) of this subparagraph applies shall include, for example, amounts considered to be return of premiums or other consideration paid under section 22(b)(2) of the Internal Revenue Code of 1939 and amounts considered to be an employer-provided death benefit under section 22(b)(1)(B) of such Code. For rules relating to the extent to which an employee or his beneficiary may include employer contributions in the aggregate amount of premiums or other consideration paid, see § 1.72–8. If the aggregate amount of premiums or other consideration paid for the contract includes amounts for which deductions were allowed under section 404 as contributions on behalf of a self-employed individual, such amounts shall not be included in the investment in the contract.

* * * * * *

(c) *Special rules.* * * *

(2) For special rules relating to the determination of the investment in the contract where employer contributions are involved, see § 1.72–8. See also paragraph (b) of § 1.72–16 for a special rule relating to the determination of the premiums or other consideration paid for a contract where an employee is taxable on the premiums paid for life insurance protection that is purchased by and considered to be a distribution from an exempt employees' trust.

PAR. 4. Paragraph (a)(2) of § 1.72–11 is amended to read as follows:

§ 1.72–11 Amounts not received as annuity payments.

(a) *Introductory.* * * *

(2) The principles of this section apply, to the extent appropriate thereto, to amounts paid which are taxable under section 72 (except section 72(e)(3)) in accordance with sections 402 and 403 and the regulations thereunder. How-

ever, if the aggregate of premiums or other consideration paid for the contract includes amounts for which a deduction was allowed under section 404 as contributions on behalf of an owner-employee, the rules of this section are modified by the rules of paragraph (b) of § 1.72–17. Further, in applying the provisions of this section, the aggregate premiums or other consideration paid shall not include contributions on behalf of self-employed individuals to the extent that deductions were allowed under section 404 for such contributions. Nor, shall the aggregate of premiums or other consideration paid include amounts used to purchase life, accident, health, or other insurance protection for an owner-employee. See paragraph (b)(4) of § 1.72–16 and paragraph (c) of § 1.72–17. The principles of this section also apply to payments made in the manner described in paragraph (b)(3)(i) of § 1.72–2.

PAR. 5. Paragraph (a) of § 1.72–13 is amended by adding at the end thereof the following new subparagraph:

§ 1.72–13 Special rule for employee contributions recoverable in three years.

(a) *Amounts received as an annuity.*

* * *

(5) For purposes of section 72(d), contributions which are made with respect to a self-employed individual and which are allowed as a deduction under section 404(a) are not considered contributions by the employee, but such contributions are considered contributions by the employer. A contribution which is deemed paid in a prior taxable year under the provisions of section 404(a)(6) shall be considered made with respect to a self-employed individual if the individual on whose behalf the contribution is made was self-employed for the taxable year in which the contribution is deemed paid, whether or not such individual is self-employed at the time the contribution is actually paid. Contributions with respect to a self-employed individual who is an owner-employee used to purchase life, accident, health, or other insurance protection for such owner-employee shall not be treated as consideration for the contract contributed by the employee in computing the employee contributions for purposes of section 72(d).

PAR. 6. There are inserted immediately after paragraph (f) of § 1.72–15 a new paragraph (g) and new §§ 1.72–16 through 1.72–18. These added provisions read as follows:

§ 1.72–15 Applicability of section 72 to accident or health plans.

* * * * *

(g) *Payments to or on behalf of a self-employed individual.* A self-employed individual is not considered an employee for purposes of section 105, relating to amounts received by employees under accident and health plans, nor for purposes of excluding under section 104(a)(3) amounts received by him under an accident and health plan as referred to in section 105(e). See section 105(g) and paragraph (a) of § 1.105–1. Therefore, the other paragraphs of this section are not applicable to amounts received by or on behalf of a self-employed individual. Except where accident or health benefits are provided through an insurance contract or an arrangement having the effect of insurance, all amounts received by or on behalf of a self-employed individual from a plan described in section 401(a) and exempt under section 501(a) or a plan described in section 403(a) shall be taxed as otherwise provided in section 72, 402, or 403. If the accident or health benefits are paid under an insurance contract or under an arrangement having the effect of insurance, section 104(a)(3) shall apply. Section 72 shall not apply to any amounts received under such circumstances. For the treatment of the amounts paid for such accident or health benefits, see section 404(e)(3) and paragraph (e) of § 1.404(e)–1.

§ 1.72–16 Life insurance contracts purchased under qualified employee plans.

(a) *Applicability of section.* This section provides rules for the tax treatment of premiums paid under qualified pension, annuity, or profit-sharing plans for the purchase of life insurance contracts and rules for the tax treatment of the proceeds of such a life insurance contract and of annuity contracts purchased under such plans. For purposes of this section, the term "life insurance contract" means a retirement income, an endowment, or other contract providing life insurance protection. The rules of this section apply to plans covering only common-law employees as well as to plans covering self-employed individuals.

(b) *Treatment of cost of life insurance protection.* (1) The rules of this paragraph are applicable to any life insurance contract—

(i) Purchased as a part of a plan described in section 403(a), or

(ii) Purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) if the proceeds of such contract are payable directly or indirectly to a participant in such trust or to a beneficiary of such participant.

The proceeds of a contract described in subdivision (ii) of this subparagraph will be considered payable indirectly to a participant or beneficiary of such participant where they are payable to the trustee but under the terms of the plan the trustee is required to pay over all of such proceeds to the beneficiary.

(2) If under a plan or trust described in subparagraph (1) of this paragraph, contributions of the employer which are allowed as a deduction under section 404, or earnings of the trust, are applied toward the purchase of a life insurance contract described in subparagraph (1) of this paragraph, the cost of the life insurance protection under such contract shall be included in the gross income of the participant for the taxable year or years in which such contributions or earnings are so applied. The provisions of this subparagraph are not applicable to a contribution on behalf of a self-employed individual inasmuch as the portion of such a contribution used to purchase life insurance protection is not deductible under section 404. See paragraph (e) of § 1.404(e)–1. However, the provisions of this subparagraph will in all cases be applicable where corpus or earnings trust are used to purchase the life insurance protection.

(3) If the amount payable upon death at any time during the year exceeds the cash value of the insurance policy at the end of the year, the entire amount of such excess is considered current life insurance protection. The cost of such insurance will be considered to be a reasonable net premium cost, as determined by the Commissioner, for such amount of insurance for the appropriate period.

(4) The amount includible in the gross income of the employee under this paragraph shall be considered as premiums or other consideration paid or contributed by the employee only with respect to any benefits attributable to the contract (within the meaning of paragraph (a)(3) of § 1.72–2) providing the life insurance protection. However, if under the rules of this paragraph an owner-employee is required to include any amounts in his gross income, such amounts shall not in any case be treated as part of his investment in the contract.

(5) The determination of the cost of life insurance protection may be illustrated by the following example:

Example. An annual premium policy purchased by a qualified trust for a common-law employee provides an annuity of $100 per month upon retirement at age 65, with a minimum death benefit of $10,000. The insurance payable if death occurred in the first year would be $10,000. The cash value at the end of the first year is 0. The net insurance is therefore $10,000 minus 0, or $10,000. Assuming that the Commissioner has determined that a reasonable net premium cost for the employee's age is $5.85 per $1,000, the premium for $10,000 of life insurance is therefore $58.50, and this is the amount to be reported as income by the employee for his taxable year in which the premium is paid. The balance of the premium is the amount contributed for the annuity, which is not taxable to the employee under a plan meeting the requirements of section 401(a), except as provided under section 402(a). Assuming that the cash value at the end of the second year is $500, the net insurance would then be $9,500 for the second year. With a net 1-year term rate of $6.30 for the employee's age in the second year, the amount to be reported as income to the employee would be $59.85.

(6) This paragraph shall not apply if the trust has a right under any circumstances to retain any part of the proceeds of the life insurance contract. But see paragraph (c)(4) of this section relating to the taxability of the distribution of such proceeds to a beneficiary.

(c) *Treatment of proceeds of life insurance and annuity contracts.* (1) If under a qualified pension, annuity, or profit-sharing plan, there is purchased either—

(i) A life insurance contract described in paragraph (b)(1) of this section, and the employee either paid the cost of the insurance or was taxable on the cost of the insurance under paragraph (b) of this section, or

(ii) An annuity contract,

the amounts payable under any such contract by reason of the death of the employee are taxable under the rules of subparagraph (2) of this paragraph, except in the case of a joint and survivor annuity.

(2) (i) In the case of an annuity contract, the death benefit is the accumulation of the premiums (plus earnings thereon) which is intended to fund pension or other deferred benefits under a pension, annuity, or profit-sharing plan. Such death benefits are not in the nature of life insurance and are not excludable from gross income under section 101(a).

(ii) In the case of a life insurance contract under which there is a reserve accumulation which is intended to fund pension or other deferred benefits under a pension, annuity, or profit-sharing plan, such reserve accumulation constitutes the source of the cash value of the contract and approximates the amount of such cash value. The portion of the proceeds paid upon the death of the insured employee which is equal to the cash value immediately before death is not excludable from gross income under section 101(a). The remaining portion, if any, of the proceeds paid to the beneficiary by reason of the death of the insured employee—that is, the amount in excess of the cash value—constitutes current insurance protection and is excludable under section 101(a).

(iii) The death benefit under an annuity contract, or the portion of the death proceeds under a life insurance contract which is equal to the cash value of the contract immediately before death, constitutes a distribution under the plan consisting in whole or in part of deferred compensation and is taxable to the beneficiary in accordance with section 72(m)(3) and the provisions of this paragraph, except to the extent that the limited exclusion from income provided in section 101(b) is applicable.

(iv) In the case of a life insurance contract under which the benefits are paid at a date or dates later than the death of the employee, section 101(d) is applicable only to the portion of the benefits which is attributable to the amount excludable under section 101(a). The portion of such benefits which is attributable to the cash value of the contract immediately before death is taxable under section 72, and in such case, any amount excludable under section 101(b) is treated as additional consideration paid by the employee in accordance with section 101(b)(2)(D).

(3) The application of the rules under subparagraph (2) of this paragraph with respect to the taxability of proceeds of a life insurance contract paid by reason of the death of an insured common-law employee who has paid no contributions under the plan is illustrated by the following examples:

Example (1).

Total face amount of the contract payable in a lump sum at time of death	$25,000
Cash value of the contract immediately before death	11,000
Excess over cash value, excludable under section 101(a)	$14,000
Cash value subject to limited exclusion under section 101(b)	11,000
Excludable under section 101(b) (assuming that there is no other death benefit paid by or on behalf of any employer with respect to the employee)	5,000
Balance taxable in accordance with section 402(a)(2) or 403(a)(2) (assuming a total distribution in one taxable year of the distributee)	6,000
Portion of premiums taxed to employee under the provisions of paragraph (b) of this section and considered as contributions of the employee	940
Balance taxable as long-term capital gain	5,060

Example (2). The facts are the same as in example (1), except that the contract provides that the beneficiary may elect within 60 days after the death of the employee either to take the $25,000 or to receive 10 annual installments of $3,000 each, and the beneficiary elects to receive the 10 installments. In addition, the employee's rights to the cash value immediately before his death were forfeitable at least to the extent of $5,000. Section 101(d) is applicable to the amount excludable under section 101(a), that is, $14,000. The portion of each annual installment of $3,000 which is attributable to this $14,000 is determined by allocating each installment in accordance with the ratio which this $14,000 bears to the total amount which was payable at death ($25,000). Accordingly, the portion of each annual installment which is subject to section 101(d) is $1,680 (14/25 of $3,000), of which $1,400 (1/10 of $14,000) is excludable under section 101(a), and the remaining $280 is includible in the gross income of the beneficiary. However, if the beneficiary is a surviving spouse as defined in section 101(d)(3), the exclusion provided by section 101(d)(1)(B) is applicable to such $280. The remaining portion of each annual $3,000 installment, $1,320, is attributable to the cash value of the contract and is treated under section 72, as follows:

Amount actually contributed by the employee	$0
Amount considered contributed by employee by reason of section 101(b)	$5,000
Portion of premiums taxed to employee under the provisions of paragraph (b) of this section and considered as contributions of the employee	$940
Investment in the contract	$5,940
Expected return, 10×$1,320	$13,200
Exclusion ratio, $5,940÷$13,200	0.45
Annual exclusion, 0.45×$1,320	$594

Accordingly, $594 of the $1,320 portion of each annual installment is excludable each year under section 72, and the remaining $726 is includible. Thus, if the beneficiary is not a surviving spouse, a total of $1,006 ($280 plus $726) of each annual $3,000 installment is includible in income each year. If the beneficiary is a surviving spouse, and can exclude all of the $280 under section 101(d)(1)(B), the amount includible in gross income each year is $726 of each annual $3,000 installment.

(4) If an employee neither paid the total cost of the life insurance protection provided under a life insurance contract, nor was taxable under paragraph (b) of this section with respect thereto, no part of the proceeds of such a contract which are paid to the beneficiaries of the employee as a death benefit is excludable under section 101(a). The entire distribution is taxable to the beneficiaries under section 402(a) or 403(a) except to the extent that a limited exclusion may be allowable under section 101(b).

§ 1.72–17 Special rules applicable to owner-employees.

(a) *In general.* Under section 401(c) and section 403(a), certain self-employed individuals may participate in qualified pension, annuity, and profit-sharing plans, and the amounts received by such individuals from such plans are taxable under section 72. Section 72 (m) and this section contain special rules for the taxation of amounts received from qualified pension, profit-sharing, or annuity plans covering an owner-employee. For purposes of section 72 and the regulations thereunder, the term "employee" shall include the self-employed individual who is treated as an employee by section 401(c)(1) (see paragraph (b) of § 1.401–10), and the term "owner-employee" has the meaning assigned to it in section 401(c)(3) (see paragraph (d) of § 1.401–10). See also paragraph (a)(2) of § 1.401–10 for the rule for determining when a plan covers an owner-employee. For purposes of this section, a self-employed individual may not treat as consideration for the contract contributed by the employee any contributions under the plan for which deductions were allowed under section 404 and which, consequently, are considered employer contributions.

(b) *Certain amounts received before annuity starting date.* (1) The rules of this paragraph are applicable to amounts received from a qualified pension, profit-sharing, or annuity plan by an employee (or his beneficiary) who is or was an owner-employee with respect to such plan when such amounts—

(i) Are received before the annuity starting date; and

(ii) Are not received as an annuity.

For the definition of annuity starting date, see paragraph (b) of § 1.72–4 and subparagraph (4) of this paragraph. As to what constitutes amounts not received as an annuity, see paragraphs (c) and (d) of § 1.72.11.

(2) Amounts to which this paragraph applies shall be included in the recipient's gross income for the taxable year in which received. However, the sum of the amounts so included under this subparagraph in all taxable years shall not exceed the aggregate deductions allowed under section 404 for premiums or other consideration paid under the plan on behalf of the employee while he was an owner-employee, including any such deductions taken in the taxable year of receipt.

(3) Any amounts to which this paragraph applies and which are not included in gross income under the rules of subparagraph (2) of this paragraph shall be subject to the provisions of section 72(e) (except paragraph (3) thereof) and § 1.72–11.

(4) Under section 401(d)(4), a qualified pension, profit-sharing, or annuity

plan may not provide for distributions to an owner-employee before he reaches age 59½ years, except in the case of his earlier disability (within the meaning of section 213(g)(3)). Therefore, in the case of a distribution from a qualified plan to an individual for whom contributions have been made to the plan as an owner-employee, the annuity starting date cannot be prior to the time such individual attains the age 59½ years unless he is entitled to benefits before reaching such age because of his disability (within the meaning of section 213(g)(3)).

(5) The rules of this paragraph are not applicable to amounts credited to an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which are in the nature of a dividend or refund of premium, and which are applied in accordance with paragraph (a)(4) of § 1.404(a)–8 towards the purchase of benefits under the policy.

(6) The rules of this paragraph may be illustrated by the following example:

Example. B, a self-employed individual, received $8,000 as a distribution under a qualified pension plan before the annuity starting date. At the time of such distribution, $10,000 had been contributed (the whole amount being allowed as a deduction) under the plan on behalf of such individual while he was a common-law employee and $5,000 had been contributed under the plan on his behalf while he was an owner-employee, of which $2,500 was allowed as a deduction. In addition, B had contributed $1,000 on his own behalf as an employee under the plan. Of the $8,000, $2,500 (the amount allowed as a deduction with respect to contributions on behalf of the individual while he was an owner-employee) is includible in gross income under subparagraph (2) of this paragraph. With respect to the remaining $5,500, B has a basis of $3,500, consisting of the $2,500 contributed on his behalf while he was an owner-employee which was not allowed as a deduction and the $1,000 which B contributed as an employee. The difference between the $5,500 and B's basis of $3,500, or $2,000, is includible in gross income under section 72(e).

(c) *Amounts paid for life, accident, health, or other insurance.* Amounts used to purchase life, accident, health, or other insurance protection for an owner-employee shall not be taken into account in computing the following:

(1) The aggregate amount of premiums or other consideration paid for the contract for purposes of determining the investment in the contract under section 72(c)(1)(A) and § 1.72–6;

(2) The consideration for the contract contributed by the employee for purposes of section 72(d)(1) and § 1.72–13, which provide the method of taxing employees' annuities where the employee's contributions will be recoverable within 3 years; and

(3) The aggregate premiums or other consideration paid for purposes of section 72(e)(1)(B) and § 1.72–11, which provide the rules for taxing amounts not received as annuities prior to the annuity starting date.

The cost of such insurance protection will be considered to be a reasonable net premium cost, as determined by the Commissioner, for the appropriate period.

(d) *Amounts constructively received.* (1) If during any taxable year an owner-employee assigns or pledges (or agrees to assign or pledge) any portion of his interest in a trust described in section 401(a) which is exempt from tax under section 501(a), or any portion of the value of a contract purchased as part of a plan described in section 403(a), such portion shall be treated as having been received by such owner-employee as a distribution from the trust or as an amount received under the contract during such taxable year.

(2) If during any taxable year an owner-employee receives, either directly or indirectly, any amount from any insurance company as a loan under a contract purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) or purchased as part of a plan described in section 403(a), and issued by such insurance company, such amount shall be treated as an amount received under the contract during such taxable year. An owner-employee will be considered to have received an amount under a contract if a premium, which is otherwise in default, is paid by the insurance company in the form of a loan against the cash surrender value of the contract. Further, an owner-employee will be considered to have received an amount to which this subparagraph applies if an amount is received from the issuer of a face-amount certificate as a loan under such a certificate purchased as part of a qualified trust or plan.

(e) *Penalties applicable to certain amounts received by owner-employees.* (1)(i) The rules of this paragraph are applicable to amounts, to the extent includible in gross income, received from a trust described in section 401(a) or under a plan described in section 403(a) by or on behalf of an individual who is or has been an owner-employee with respect to such plan or trust—

(*a*) Which are received before the owner-employee reaches the age 59½ years and which are attributable to contributions paid on behalf of such owner-employee (whether or not paid by him) while he was an owner-employee (see subdivision (ii) of this subparagraph),

(*b*) Which are in excess of the benefits provided for such owner-employee under the plan formula (see subdivision (iii) of this subparagraph), or

(*c*) Which are received by reason of a distribution of the owner-employee's entire interest under the provisions of section 401(e)(2)(E), relating to excess contributions on behalf of an owner-employee which are willfully made.

(ii) The amounts referred to in subdivision (i)(*a*) of this subparagraph do not include—

(*a*) Amounts received by reason of the owner-employee becoming disabled within the meaning of section 213(g)(3), or

(*b*) Amounts received by the owner-employee in his capacity as a policyholder of an annuity, endowment, or life insurance contract which are in the nature of a dividend or similar distribution.

Amounts attributable to contributions paid on behalf of an owner-employee and which are paid to a person other than the owner-employee before the owner-employee dies or reaches the age 59½ shall be considered received by the owner-employee for purposes of this paragraph.

(iii) This paragraph applies to amounts described in subdivision (i)(*b*) of this subparagraph (relating to excess benefits) even though a portion of such amounts may be attributable to contributions made on behalf of an individual while he was not an owner-employee and even though the amounts are received by his successor. However, these amounts do not include the portion of a distribution to which section 402(a)(2) or 403(a)(2) (relating to certain total distributions in one taxable year) applies.

(iv) (*a*) For purposes of subdivision (i)(*a*) of this subparagraph, the portion of any distribution or payment attributable to contributions on behalf of an employee-participant while he was an owner-employee includes the contributions made on his behalf while he was an owner-employee and the increments in value attributable to such contributions.

(*b*) The increments in value of an individual's account may be allocated to contributions on his behalf while he was an owner-employee either by maintaining a separate account, or an accounting, which reflects the actual increment attributable to such contributions, or by the method described in (*c*) of this subdivision.

(*c*) Where an individual is covered under the same plan both as an owner-employee and as a nonowner-employee, the portion of the increment in value of his interest attributable to contributions made on his behalf while he was an owner-employee may be determined by multiplying the total increment in value in his account by a fraction. The numerator of the fraction is the total contributions made on behalf of the individual as an owner-employee, weighted for the number of years that each contribution was in the plan. The denominator is the total contributions made on behalf of the individual, whether or not an owner-employee, weighted for the number of years each contribution was in the plan. The contributions are weighted for the number of years in the plan by multiplying each contribution by the number of years it was in the plan. For purposes of this computation, any forfeiture allocated to the account of the individual is treated as a contribution to the account made at the time so allocated.

(*d*) The method described in (*c*) of this subdivision may be illustrated by the following example:

Example. B was a member of the XYZ Partnership and a participant in the partnership's profit-sharing plan which was created in 1963. Until the end of 1967, B's interest in the partnership was less than 10 percent. On January 1, 1968, B obtained an interest in excess of 10 percent in the partnership and continued to participate in the profit-sharing plan until 1972. During 1972, prior to the time he attained the age of 59½ years and during a time when he was not disabled, B withdrew his entire interest in the profit-sharing plan. At that time his

interest was $15,000, $9,600 contributions and $5,400 increment attributable to the contributions. The portion of the increment attributable to contributions while B was an owner-employee is $667.80, determined as follows:

	A Contribution	B Number of years contribution was in trust—	C Contribution weighted for years in trust (A×B)
1972	$1,000	0	0
1971	800	1	800
1970	1,200	2	2,400
1969	600	3	1,800
1968	800	4	800
1967	400	5	2,000
1966	2,000	6	12,000
1965	1,000	7	7,000
1964	1,500	8	12,000
1963	900	9	8,100
	9,600		46,900

Total weighted contributions as owner-employee (1968–1972)—5,800.
Total weighted contributions—46,900.

$$\$5,400 \times \frac{5,800}{46,900} = \$667.80$$

(2) (i) If the aggregate of the amounts to which this paragraph applies received by any person in his taxable year equals or exceeds $2,500, the tax with respect to such amount shall be the greater of—

(*a*) The increase in tax attributable to the inclusion of the amounts so received in his gross income for the taxable year in which received, or

(*b*) 110 percent of the aggregate increase in taxes, for such taxable year and the four immediately preceding taxable years, which would have resulted if such amounts had been included in such person's gross income ratably over such taxable years. However, if deductions were allowed under section 404 for contributions to the plan on behalf of the individual as an owner-employee for less than four prior taxable years (whether or not consecutive), the number of immediately preceding taxable years taken into account shall be the number of prior taxable years in which such deductions were allowed.

(ii) If the aggregate of the amounts to which this paragraph applies received by any person in his taxable year is less than $2,500, the tax with respect to such amounts shall be 110 percent of the increase in tax which results from including such amounts in the person's gross income for the taxable year in which received.

(3) (i) For purposes of making the ratable inclusion computations of subparagraph (2) (i) of this paragraph, the taxable income of the recipient for each taxable year involved (notwithstanding section 63, relating to definition of taxable income) shall be treated as being not less than the amount required to be treated as includible in the taxable year pursuant to the ratable inclusion.

(ii) For purposes of subparagraph (2) (i) (*a*) and (ii) of this paragraph, the recipient's taxable income (notwithstanding section 63, relating to definition of taxable income) shall be treated as being not less than the aggregate of the amounts to which this paragraph applies reduced by the deductions allowed the recipient for such taxable year under section 151 (relating to deductions for personal exemptions).

(iii) In any case in which the application of subdivision (i) or (ii) of this subparagraph results in an increase in taxable income for any taxable year, the resulting increase in taxes imposed by section 1 or 3 for such taxable year shall be reduced by the credit against tax provided by section 31 (tax withheld on wages), but shall not be reduced by any other credits against tax.

(4) The application of the rules of subparagraphs (2) (i) and (3) of this paragraph may be illustrated by the following example:

Example. B, a sole proprietor, established a qualified pension trust to which he made annual contributions for 10 years of 10 percent of his earned income. B withdrew his entire interest in the trust during a taxable year when he was 55 years old and not disabled and for which, without regard to the distribution, he had a net operating loss and for which he is allowed under section 151 a deduction for one personal exemption. The portion of the distribution includible in B's gross income is $25,600. In addition, B had a net operating loss for the taxable year immediately preceding the taxable year in which he received the distribution from the trust. The other three taxable years involved in the computation under subparagraph (2) (i) of this paragraph were years of substantial income. For purposes of determining B's increase in tax attributable to the receipt of the $25,600 (before the application of the provisions of subparagraph (2) (i) (*b*) of this paragraph), B's taxable income for the year he received the $25,600 is treated, under subparagraph (3) (ii) of this paragraph, as being $25,000 ($25,600 minus $600). For purposes of determining whether 110 percent of the aggregate increase in taxes which would have resulted if 20 percent of the amount of the withdrawal had been included in B's gross income for the year of receipt and for each of the four preceding taxable years is greater (and thus is the amount of his increase in tax attributable to the receipt of the $25,600), B's taxable income for the taxable year of receipt, and for the immediately preceding taxable year, is treated, under subparagraph (3) (i) of this paragraph, as being $5,120 ($25,600 divided by 5).

§ 1.72–18 Treatment of certain total distributions with respect to self-employed individuals.

(a) *In general.* The Self-Employed Individuals Tax Retirement Act of 1962 permits self-employed individuals to be treated as employees for purposes of participation in pension, profit-sharing, and annuity plans described in sections 401(a) and 403(a). In general, amounts received by a distributee or payee which are attributable to contributions made on behalf of a participant while he was self-employed are taxed in the same manner as amounts which are attributable to contributions made on behalf of a common-law employee. However, amounts which are paid in one taxable year representing the total distributions payable to a distributee or payee with respect to an employee, are not eligible for the capital gains treatment of section 402(a) (2) or 403(a) (2). This section sets forth the treatment of such distributions, except where such a distribution is subject to the penalties of section 72(m) (5) and paragraph (e) of § 1.72–17.

(b) *Distributions to which this section applies.* (1) (i) Except as provided in subparagraphs (2) and (3) of this paragraph, this section applies to amounts distributed to a distributee in one taxable year of the distributee in the case of an employees' trust described in section 401 (a) which is exempt under section 501(a), or to amounts paid to a payee in one taxable year of the payee in the case of an annuity plan described in section 403 (a), which constitute the total distributions payable, or the total amounts payable, to the distributee or payee with respect to an employee.

(ii) For the total distributions or amounts payable to a distributee or payee to be considered paid within one taxable year of the distributee or payee for purposes of this section, all amounts to the credit of the employee-participant through the end of such taxable year which are payable to the distributee or payee must be distributed or paid within such taxable year. Thus, the provisions of this section are not applicable to a distribution or payment to a distributee or payee if the trust or plan retains any amounts after the close of such taxable year which are payable to the same distributee or payee even though the amounts retained may be attributable to contributions on behalf of the employee-participant while he was a common-law employee in the business with respect to which the plan was established.

(iii) For purposes of this section, the total amounts payable to a distributee or the amounts to the credit of the employee do not include United States Retirement Plan Bonds held by a trust to the credit of the employee. Thus, a distribution to a distributee by a qualified trust may constitute a distribution to which this section applies even though the trust retains retirement plan bonds registered in the name of the employee on whose behalf the distribution is made which are to be distributed to the same distributee. Moreover, the proceeds of a retirement bond received as part of a distribution which constitutes the total distributions payable to the distributee are not entitled to the special tax treatment of this section. See section 405 (d) and paragraph (a) (1) of § 1.405–3.

(iv) If the amounts payable to a distributee from a qualified trust with respect to an employee-participant includes an annuity contract, such contract must be distributed along with all other amounts payable to the distributee in order to have a distribution to which this section applies. However, the proceeds of an annuity contract received in a total distribution will not be entitled to the tax treatment of this section unless the contract is surrendered in the taxable year of the distributee in which the total distribution was received.

(v) In the case of a qualified annuity plan, the term "total amounts" means all annuities payable to a payee. If more than one annuity contract is received under the plan by a distributee, this section shall not apply to an amount received on surrender of any such contracts unless all contracts under the plan pay-

able to the payee are surrendered within one taxable year of the payee.

(vi) (*a*) The provisions of this section are applicable where the total amounts payable to a distributee or payee are paid within one taxable year of the distributee or payee whether or not a portion of the employee-participant's interest which is payable to another distributee or payee is paid within the same taxable year. However, a distributee or payee who, in prior taxable years received amounts (except amounts described in (*b*) of this subdivision) after the employee-participant ceases to be eligible for additional contributions to be made on his behalf, does not receive a distribution or payment to which this section applies, even though the total amount remaining to be paid to such distributee or payee with respect to such employee is paid within one taxable year. On the other hand, a distribution to a distributee or payee prior to the time that the employee-participant ceases to be eligible for additional contributions on his behalf does not preclude the application of this section to a later distribution to the same distributee or payee.

(*b*) The receipt of an amount which constitutes—

(*1*) A payment in the nature of a dividend or similar distribution to an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract, or

(*2*) A return of excess contributions which were not willfully made,

does not prevent the application of this section to a total distribution even though the amount is received after the employee-participant ceases to be eligible for additional contributions and in a taxable year other than the taxable year in which the total amount is received.

(2) This section shall apply—

(i) Only if the distribution or payment is made—

(*a*) On account of the employee's death at any time,

(*b*) After the employee has attained the age 59½ years, or

(*c*) After the employee has become disabled (within the meaning of section 213(g)(3)); and

(ii) Only to so much of the distribution or payment as is attributable to contributions made on behalf of an employee while he was a self-employed individual in the business with respect to which the plan was established. Any distribution or payment, or any portion thereof, which is not so attributable shall be subject to the rules of taxation which apply to any distribution or payment that is attributable to contributions on behalf of common-law employees.

(3) This section shall not apply to—

(i) Distributions or payments to which the penalty provisions of section 72(m)(5) and paragraph (e) of § 1.72–17 apply,

(ii) Distributions or payments from a trust or plan made to or on behalf of an individual prior to the time such individual ceases to be eligible for additional contributions (except the contribution attributable to the last year of service) to be made to the trust or plan on his behalf as a self-employed individual, and

(iii) Distributions or payments made to the employee from a plan or trust unless contributions which were allowed as a deduction under section 404 have been made on behalf of such employee as a self-employed individual under such trust or plan for 5 or more taxable years (whether or not consecutive) prior to the taxable year in which such distributions or payments are made. Distributions or payments to which this section does not apply by reason of this subdivision are taxed as otherwise provided in section 72 (except that section 72(e)(3) is not applicable).

(4) The portion of any distribution or payment attributable to contributions on behalf of an employee-participant while he was self-employed includes the contributions made on his behalf while he was self-employed and the increments in value attributable to such contributions. Where the amounts to the credit of an employee-participant include amounts attributable to contributions on his behalf while he was a self-employed individual and amounts attributable to contributions on his behalf while he was a common-law employee, the increment in value attributable to the employee-participant's interest shall be allocated to the contributions on his behalf while he was self-employed either by maintaining a separate account, or an accounting, which reflects the actual increment attributable to such contributions, or by the method described in paragraph (e)(1)(iv)(*c*) of § 1.72–17. However, if the latter method is used, the numerator of the fraction is the total contributions made on behalf of the individual as a self-employed individual, weighted for the number of years that each contribution was in the plan.

(c) *Amounts includible in gross income.* (1) Where a total distribution or payment to which this section applies is made to one distributee or payee and includes the total amount remaining to the credit of the employee-participant on whose behalf the distribution or payment was made, the distributee or payee shall include in gross income an amount equal to the portion of the distribution or payment which exceeds the employee-participant's investment in the contract. For purposes of this paragraph, the investment in the contract shall be reduced by any amounts previously received from the plan or trust by or on behalf of the employee-participant which were excludable from gross income as a return of the investment in the contract.

(2) In the case of a distribution to which this section applies and which is made to more than one distributee or payee, each element of the amounts to the credit of an employee-participant shall be allocated among the several distributees or payees on the basis of the ratio of the value of the distributee's or payee's distribution or payment to the total amount to the credit of the employee-participant. The elements to be so allocated include the investment in the contract, the increments in value, and the portion of the amounts to the credit of the employee-participant which is attributable to the contributions on behalf of the employee-participant while he was a self-employed individual.

(d) *Computation of tax.* (1) The tax attributable to the amounts to which this section applies for the taxable year in which such amounts are received is the greater of—

(i) 5 times the increase in tax which would result from the inclusion in gross income of the recipient of 20 percent of so much of the amount so received as is includible in gross income, or

(ii) 5 times the increase which would result if the taxable income of the recipient for such taxable year equaled 20 percent of the excess of the aggregate of the amounts so received and includible in gross income over the amount of the deductions allowed the recipient for such taxable year under section 151 (relating to deduction for personal exemptions).

In any case in which the application of subdivision (ii) of this subparagraph results in an increase in taxable income for any taxable year, the resulting increase in taxes imposed by section 1 or 3 for such taxable year shall be reduced by the credit against tax provided by section 31 (tax withheld on wages), but shall not be reduced by any other credits against tax.

(2) The application of the rules of this paragraph may be illustrated by the following example:

Example. B, a sole proprietor, established a qualified pension trust to which he made annual contributions for 10 years of 10 percent of his earned income. B withdrew his entire interest in the trust during a taxable year for which, without regard to the distribution, he had a net operating loss and for which he is allowed under section 151 a deduction for one personal exemption. At the time of the withdrawal, B was 64 years old. The amount of the distribution that is includible in his gross income is $25,600. Because of B's net operating loss, the tax attributable to the distribution is determined under the rule of subparagraph (1)(ii) of this paragraph. For purposes of determining the tax attributable to the $25,600, B's taxable income for the taxable year in which he received such amount is treated, under subparagraph (1)(ii) of this paragraph, as being 20 percent of $25,000 ($25,600 minus $600 (the deduction allowed for his personal exemptions)). Thus, under subparagraph (1) of this paragraph, the tax attributable to the $25,600 would be 5 times the increase which would result if the taxable income of B for the taxable year he received such amount equaled $5,000. B has had no amounts withheld from wages and thus is not entitled to reduce the increase in taxes by the credit against tax provided in section 31 and may not reduce the increase in taxes by any other credits against tax.

PAR. 7. There is inserted immediately before § 1.402(a) the following new section:

§ 1.401–13 Excess contributions on behalf of owner-employees.

(a) *Introduction.* (1) The provisions of this section prescribe the rules relating to the treatment of excess contributions made under a qualified pension, annuity, or profit-sharing plan on behalf of a self-employed individual who is an owner-employee (as defined in

paragraph (d) of § 1.401–10). Paragraph (b) of this section defines the term "excess contribution". Paragraph (c) of this section describes an exception to the definition of an excess contribution in the case of contributions which are applied to pay premiums on certain annuity, endowment, or life insurance contracts. Paragraph (d) of this section describes the effect of making an excess contribution which is not determined to have been willfully made, and paragraph (e) of this section describes the effect of making an excess contribution which is determined to have been willfully made.

(2) Under section 401(c)(1), certain self-employed individuals are treated as employees for purposes of section 401. In addition, under section 401(c)(4), a proprietor is treated as his own employer, and the partnership is treated as the employer of the partners. Under section 404, certain contributions on behalf of a self-employed individual are treated as deductible and taken into consideration in determining the amount allowed as a deduction under section 404(a). Such contributions are treated under section 401 and the regulations thereunder as employer contributions on behalf of the self-employed individual. However, in some cases, additional contributions may be made on behalf of a self-employed individual. Such contributions are not taken into consideration in determining the amount deductible under section 404 and are not taken into consideration in computing the amount allowed as a deduction under section 404(a). For purposes of section 401 and the regulations thereunder, such contributions are treated as employee contributions by the self-employed individual. If a self-employed individual is an owner-employee within the meaning of section 401(c)(3) and paragraph (d) of § 1.401–10, then this section prescribes the rules applicable if contributions are made in excess of those permitted to be made under section 401.

(b) *Excess contributions defined.* (1) (i) Except as provided in paragraph (c) relating to contributions which are applied to pay premiums on certain annuity, endowment, or life insurance contracts, an excess contribution is any amount described in subparagraphs (2) through (4) of this paragraph.

(ii) For purposes of determining if the amount of any contribution made under the plan on behalf of an owner-employee is an excess contribution, the amount of any contribution made under the plan which is allocable to the purchase of life, accident, health, or other insurance is not taken into account. The amount of any contribution which is allocable to the cost of insurance protection is determined in accordance with the provisions of paragraph (f) of § 1.404(e)–1 and paragraph (b) of § 1.72–16.

(2) (i) In the case of a taxable year of the plan for which employer contributions are made on behalf of only owner-employees, an excess contribution is the amount of any contribution for such taxable year on behalf of such owner-employee which is not deductible under section 404 (determined without regard to section 404(a)(10)). This rule applies irrespective of whether the plan provides for contributions on behalf of common-law employees, or self-employed individuals who are not owner-employees, when such employees or individuals become eligible for coverage under the plan, and irrespective of whether contributions are in fact made for such employees or such individuals for other taxable years of the plan.

(ii) In the case of a taxable year of the plan for which employer contributions are made on behalf of both owner-employees and either common-law employees or self-employed individuals who are not owner-employees, an excess contribution is the amount of any employer contribution on behalf of any owner-employee for such taxable year which exceeds the amount deductible under section 404 (determined without regard to section 404(a)(10)) unless such amount may be treated as an employee contribution under the plan in accordance with the rules of paragraph (d)(3) of § 1.401–11 and is a permissible employee contribution under subparagraph (3) of this paragraph.

(3) (i) In the case of a taxable year of the plan for which employer contributions are made on behalf of both an owner-employee and either common-law employees or self-employed individuals who are not owner-employees, employee contributions on behalf of an owner-employee may be made for such taxable year of the plan. However, the amount of such contributions, if any, which is described in subdivisions (ii), (iii), or (iv) of this subparagraph is an excess contribution.

(ii) An excess contribution is the amount of any employee contribution made on behalf of any owner-employee during a taxable year of the plan at a rate in excess of the rate of contributions which may be made as employee contributions by common-law employees, or by self-employed individuals who are not owner-employees, during such taxable year of the plan.

(iii) An excess contribution is the amount of any employee contribution made on behalf of an owner-employee which exceeds the lesser of $2,500 or 10 percent of the earned income (as defined in paragraph (c) of § 1.401–10) of such owner-employee for his taxable year in which such contributions are made.

(iv) In the case of a taxable year of an owner-employee in which contributions are made on behalf of such owner-employee under more than one plan, an excess contribution is the amount of any employee contribution made on behalf of such owner-employee under all such plans during such taxable year which exceeds $2,500. If such an excess contribution is made, the amount of the excess contribution made on behalf of the owner-employee with respect to any one of such plans is the amount by which the employee contribution on his behalf under such plan for the year exceeds an amount which bears the same ratio to $2,500 as the earned income of the owner-employee derived from the trade or business with respect to which the plan is established bears to his earned income derived from the trades or businesses with respect to which all such plans are established.

(4) An excess contribution is the amount of any contribution on behalf of an owner-employee for any taxable year of the plan with respect to which the plan is treated, under section 401(e)(2), as not meeting the requirements of section 401(d) with respect to such owner-employee.

(c) *Contributions for premiums on certain annuity, endowment, or life insurance contracts.* (1) The term "excess contribution" does not include the amount of any employer contributions on behalf of an owner-employee which, under the provisions of the plan, is expressly required to be applied (either directly or through a trustee) to pay the premiums or other consideration for one or more annuity, endowment, or life insurance contracts, if—

(i) The employer contributions so applied meet the requirements of subparagraphs (2) through (4) of this paragraph, and

(ii) The total employer contributions required to be applied annually to pay premiums on behalf of any owner-employee for contracts described in this paragraph do not exceed $2,500. For purposes of computing such $2,500 limit, the total employer contributions includes amounts which are allocable to the purchase of life, accident, health, or other insurance.

(2) (i) The employer contributions must be paid under a plan which satisfies all the requirements for qualification. Accordingly, for example, contributions can be paid under the plan for life insurance protection only to the extent otherwise permitted under sections 401 through 404 and the regulations thereunder. However, certain of the requirements for qualification are modified with respect to a plan described in this paragraph (see section 401(a)(10)(A)(i) and (d)(5)(A) and (B)).

(ii) A plan described in this paragraph is not disqualified merely because a contribution is made on behalf of an owner-employee by his employer during a taxable year of the employer for which the owner-employee has no earned income. On the other hand, a plan will fail to qualify if a contribution is made on behalf of an owner-employee which results in the discrimination prohibited by section 401(a)(4) as modified by section 401(a)(10)(A)(ii) (see paragraph (f)(3) of § 1.401–12).

(3) The employer contributions must be applied to pay premiums or other consideration for a contract issued on the life of the owner-employee. For purposes of this subparagraph, a contract is not issued on the life of an owner-employee unless all the proceeds which are, or may become, payable under the contract are payable directly, or through a trustee of a trust described in section 401(a) and exempt from tax under section 501(a), to the owner-employee or to the beneficiary named in the contract. Accordingly, for example, a nontransferable face-amount certificate (as defined in section 401(g) and the regulations thereunder) is considered an

annuity on the life of the owner-employee if the proceeds of such contract are payable only to the owner-employee or his beneficiary.

(4) (i) For any taxable year of the employer, the amount of contributions by the employer on behalf of the owner-employee which is applied to pay premiums under the contracts described in this paragraph must not exceed the average of the amounts deductible under section 404 (determined without regard to section 404(a)(10)) by such employer on behalf of such owner-employee for the most recent three taxable years of the employer (ending prior to the date the latest contract was entered into), in which the owner-employee derived earned income from the trade or business with respect to which the plan is established. However, if such owner-employee has not derived earned income for at least three taxable years preceding such date, then, in determining the "average of the amounts deductible", only so many of such taxable years as such owner-employee was engaged in such trade or business and derived earned income therefrom are taken into account.

(ii) For the purpose of making the computation described in subdivision (i) of this subparagraph, the taxable years taken into account include those years in which the individual derived earned income from the trade or business but was not an owner-employee with respect to such trade or business. Furthermore, taxable years of the employer preceding the taxable year in which a qualified plan is established are taken into account. If such taxable years began prior to January 1, 1963, the amount deductible is determined as if section 404 included section 404 (a) (8), (9), (10), and (e).

(5) The amount of any employer contribution which is not deductible but which is not treated as an excess contribution because of the provisions of this paragraph shall be taken into account as an employee contribution made on behalf of the owner-employee during the owner-employee's taxable year with, or within which, the taxable year of the person treated as his employer under section 401(c)(4) ends. However, such contribution is only treated as an employee contribution made on behalf of the owner-employee for the purpose of determining whether any other employee contribution made on behalf of the owner-employee during such period is an excess contribution described in paragraph (b)(3) of this section.

(d) *Effect of an excess contribution which is not willfully made.* (1) If an excess contribution (as defined in paragraph (b) of this section) is made on behalf of an owner-employee, and if such contribution is not willfully made, then the provisions of this paragraph describe the effect of such an excess contribution. However, if the excess contribution made on behalf of an owner-employee is determined to have been willfully made, then the provisions of paragraph (e) of this section are applicable to such contribution.

(2) (i) This paragraph does not apply to an excess contribution if the net amount of such excess contribution (as defined in subparagraph (4) of this paragraph) and the net income attributable to such amount are repaid to the owner-employee on whose behalf the excess contribution was made at any time before the end of six months beginning on the day on which the district director sends notice (by certified or registered mail) of the amount of the excess contribution to the trust, insurance company, or other person to whom such excess contribution was paid. The net income attributable to the excess contribution is the aggregate of the amounts of net income attributable to the excess contribution for each year of the plan beginning with the taxable year of the plan within which the excess contribution is made and ending with the close of the taxable year of the plan immediately preceding the taxable year of the plan in which the net amount of the excess contribution is repaid. The net income attributable to the excess contribution for each year is an amount which bears the same ratio to the amount of the net income attributable to the interest of the owner-employee under the plan for such taxable year (determined in accordance with the provisions of subparagraph (5)(ii) of this paragraph) as the net amount of the excess contribution bears to the aggregate amount standing to the account of the owner-employee at the end of that year (including the amount of any excess contribution).

(ii) The notice described in subdivision (i) of this subparagraph shall not be mailed prior to the time that the amount of the tax under chapter 1 of the Code of the owner-employee to whom the excess contribution is to be repaid has been finally determined for his taxable year in which such excess contribution was made. For purposes of this subdivision, a final determination of the amount of tax liability of the owner-employee includes—

(*a*) A decision by the Tax Court of the United States, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

(*b*) A closing agreement authorized by section 7121; or

(*c*) The expiration of the period of limitation on suits by the taxpayer for refund, unless suit is instituted prior to the expiration of such period.

(iii) For purposes of this subparagraph, an amount is treated as repaid to an owner-employee if an adequate adjustment is made to the account of the owner-employee. An adequate adjustment is made to the account of an owner-employee, for example, if the amount of the excess contribution (without any reduction for any loading or other administrative charge) and the net income attributable to such amount is taken into account as a contribution under the plan for the current year. In such a case, the gross income of the owner-employee for his taxable year in which such adjustment is made includes the amount of the net income attributable to the excess contribution.

(iv) If the net amount of the excess contribution and the net income attributable thereto is repaid, within the period described in subdivision (i) of this subparagraph, to the owner-employee on whose behalf such contribution was made, then the net income attributable to the excess contribution is, pursuant to section 61(a), includible in the gross income of the owner-employee for his taxable year in which such amount is distributed, or made available, to him. However, such amount is not a distribution to which section 402 or 403 and section 72 apply (see subparagraph (6) of this paragraph).

(3) (i) If the net amount of any excess contribution (as defined in subparagraph (4) of this paragraph) and the net income attributable to that excess contribution are not repaid to the owner-employee on whose behalf the excess contribution was made before the end of the six-month period described in subparagraph (2)(i) of this paragraph, the plan under which the excess contribution has been made is considered, for purposes of section 404, as not satisfying the requirements for qualification with respect to such owner-employee for all taxable years of the plan described in subdivision (ii) of this subparagraph. However, such disqualification only applies to the interest of the owner-employee on whose behalf an excess contribution has been made and does not disqualify the plan with respect to the other participants thereunder.

(ii) The taxable years referred to in subdivision (i) of this subparagraph include the taxable year of the plan within which the excess contribution is made and each succeeding taxable year of the plan until the beginning of the taxable year of the plan in which the trust, insurance company, or other person to whom such excess contribution was paid repays to such owner-employee—

(*a*) The net amount of the excess contribution, and

(*b*) The amount of income attributable to his interest under the plan which is includible in his gross income for any taxable year by reason of the provisions of subparagraph (5) of this paragraph.

(4) For purposes of this paragraph, the net amount of an excess contribution is the amount of such excess contribution, as defined in paragraph (b) of this section, reduced by the amount of any loading charge or other administrative charge ratably allocable to such excess contribution.

(5) (i) If a plan is considered as not meeting the requirements for qualification with respect to an owner-employee by reason of the provisions of subparagraph (3) of this paragraph for any taxable year of the plan, such owner-employee's gross income for any of his taxable years with or within which such taxable year of the plan ends shall, for purposes of chapter 1 of the Code, include the portion of the net income earned under the plan for such taxable year of the plan which is attributable to the interest of the owner-employee under the plan.

(ii) For purposes of this subparagraph, the term "net income" means the net income earned under the plan determined in accordance with generally

accepted accounting principles consistently applied, and the "net income attributable to the interest of the owner-employee under the plan" is the amount which bears the same ratio to the aggregate amount of net income earned under the plan for the taxable year of the plan as the amount standing to the account of the owner-employee at the end of that year (including the amount of any excess contribution which is credited to his account) bears to the aggregate amount of all funds under the plan for all employees at the end of that year (including the aggregate amount of excess contributions credited to the accounts of all owner-employees for that year).

(iii) The provisions of this subparagraph may be illustrated by the following example:

Example. A is an owner-employee covered under the X Employees' Pension Trust who files his return on the basis of a calendar year. An excess contribution was made on behalf of A during the plan year beginning on January 1, 1966. The net amount of the excess contribution and the net income attributable thereto was not repaid to A before the end of the six-month period described in subparagraph (2)(i) of this paragraph. Accordingly, the net income earned under the plan during 1966 which is attributable to A's interest is to be included in his gross income for 1966. Assume that the trust which forms a part of the pension plan of the X Company also files its returns on a calendar year basis, and that during 1966 the trust had a gross income of $4,000 (including a long-term capital gain of $2,500) and expenses of $500. Assume, further, that the amount standing to A's account on December 31, 1966 (including the amount of the excess contribution), was $20,000, and that on that date the amount funded under the plan for all employees (including A) is $140,000. Then the net income of the trust for 1966 is $3,500 ($4,000—$500). The net income attributable to the interest of A under the plan is $500 (the amount which bears the same ratio to $3,500 as $20,000 bears to $140,000). Accordingly, $500 is included in A's gross income in accordance with the provisions of section 401(e)(2)(B) as the "net income attributable to the interest of the owner-employee under the plan".

(6) The provisions of section 402 or 403 and section 72 do not apply to any amount distributed, or made available, to an owner-employee which is described in this paragraph. Accordingly, for example, the provisions of section 72(m)(5)(A)(i), relating to amounts subject to the penalty tax imposed by section 72(m), do not apply to the amount of the net income attributable to the interest of an owner-employee (as defined in subparagraph (5)(ii) of this paragraph) which is includible in his gross income. Furthermore, in such a case, the provisions of section 401(d)(5)(C) do not apply to such amount.

(7) Certain adjustments will be required with respect to the interest of an owner-employee after any amount previously allocated to his account has been returned to him pursuant to the provisions of this paragraph. For example, if to be made with respect to the life insurance benefits provided under the plan are incidental is made, in part, with regard to the contributions allocated to the accounts of the participants covered under the plan, an adjustment may have to be made with respect to the life insurance purchased under the plan for any owner-employee after any amount previously allocated to his account has been repaid to him. Furthermore, if, for example, an owner-employee has received annuity payments which were taxable under the exclusion ratio rule of section 72, and if such exclusion ratio took into account any amount credited to the account of the owner-employee which is subsequently repaid to him, then such exclusion ratio must be recomputed after the adjustment in such owner-employee's account has taken place.

(8) Notwithstanding any other provision of law, in any case in which the plan is treated as not satisfying the requirements for qualification with respect to any owner-employee by reason of the provisions of section 401(e), the period for assessing, with respect to such owner-employee, any deficiency arising by reason of—

(i) The disallowance of any deduction under section 404 by reason of the provisions of subparagraph (3) of this paragraph, or

(ii) The inclusion of amounts in the gross income of the owner-employee by reason of the provisions of subparagraph (5) of this paragraph,

shall not expire prior to 18 months after the day the district director mails the notice with respect to the excess contribution (described in subparagraph (2)(i) of this paragraph) which gives rise to such disallowance or inclusion. Thus, for example, notwithstanding the provisions of section 6212(c) (relating to the restriction on the determination of additional deficiencies), if, after a final determination by the Tax Court of the income tax liability of an owner-employee for a taxable year in which an excess contribution was made, the amount of such excess contribution and the net income attributable thereto is not paid to the owner-employee before the end of the six-month period described in subparagraph (2)(i) of this paragraph, an additional deficiency assessment may be made for such taxable year with respect to such excess contribution.

(e) *Effect of an excess contribution which is determined to have been willfully made.* If an excess contribution (as defined in paragraph (b) of this section) on behalf of an owner-employee is determined to have been willfully made, then—

(1) Only the provisions of this paragraph apply to such contribution;

(2) There shall be distributed to the owner-employee on whose behalf such contribution was willfully made his entire interest in all plans in which he is a participant as an owner-employee;

(3) The amount distributed under each such plan is an amount to which section 72 does apply (see section 72(m)(5)(A)(iii)); and

(4) For purposes of section 404, no plan in which such individual is covered as an owner-employee shall be considered as meeting the requirements for qualification with respect to such owner-employee for any taxable year of the plan beginning with or within the calendar year in which it is determined that the excess contribution has been willfully made and with or within the five calendar years following such year.

PAR. 8. Section 1.402(a) is amended by revising section 402(a)(2) and by adding a historical note. These amended and added provisions read as follows:

§ 1.402(a) Statutory provisions; taxability of beneficiary of employees' trust; exempt trust.

SEC. 402. *Taxability of beneficiary of employees' trust*—(a) *Taxability of beneficiary of exempt trust.* • • •

(2) *Capital gains treatment for certain distributions.* In the case of an employees' trust described in section 401(a), which is exempt from tax under section 501(a), if the total distributions payable with respect to any employee are paid to the distributee within 1 taxable year of the distributee on account of the employee's death or other separation from the service, or on account of the death of the employee after his separation from the service, the amount of such distribution, to the extent exceeding the amounts contributed by the employee (determined by applying section 72(f)), which employee contributions shall be reduced by any amounts theretofore distributed to him which were not includible in gross income, shall be considered a gain from the sale or exchange of a capital asset held for more than 6 months. Where such total distributions include securities of the employer corporation, there shall be excluded from such excess the net unrealized appreciation attributable to that part of the total distributions which consists of the securities of the employer corporation so distributed. The amount of such net unrealized appreciation and the resulting adjustments to basis of the securities of the employer corporation so distributed shall be determined in accordance with regulations prescribed by the secretary or his delegate. This paragraph shall not apply to distributions paid to any distributee to the extent such distributions are attributable to contributions made on behalf of the employee while he was an employee within the meaning of section 401(c)(1).

• • • • • •

[Sec. 402(a) as amended by sec. 4(c), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 825)]

PAR. 9. Section 1.402(a)–1 is amended by revising paragraph (a) (2), (3), (4), and (5), by adding new subdivisions (vi) and (vii) at the end of paragraph (a)(6), and by adding paragraph (a)(7) and (8). These amended and added provisions read as follows:

§ 1.402(a)–1 Taxability of beneficiary under a trust which meets the requirements of section 401(a).

(a) *In general.* • • •

(2) If a trust described in section 401(a) and exempt under section 501(a) purchases an annuity contract for an employee and distributes it to the employee in a year for which the trust is exempt, the contract containing a cash surrender value which may be available to an employee by surrendering the contract, such cash surrender value will not be considered income to the employee unless and until the contract is surrendered. For the rule as to nontransferability of annuity contracts issued after 1962, see

paragraph (b)(2) of § 1.401–9. If, however, the contract distributed by such an exempt trust is a retirement income, endowment, or other life insurance contract and is distributed after October 26, 1956, the entire cash value of such contract at the time of distribution must be included in the distributee's income in accordance with the provisions of section 402(a), except to the extent that, within 60 days after the distribution of such contract, all or any portion of such value is irrevocably converted into a contract under which no part of any proceeds payable on death at any time would be excludable under section 101(a) (relating to life insurance proceeds).

(3) For the rules applicable to premiums paid by a trust described in section 401(a) and exempt under section 501(a) for the purchase of retirement income, endowment, or other contracts providing life insurance protection payable upon the death of the employee-participant, see paragraph (b) of § 1.72–16.

(4) For the rules applicable to the amounts payable by reason of the death of an employee under a contract providing life insurance protection, or an annuity contract, purchased by a trust described in section 401(a) and exempt under section 501(a), see paragraph (c) of § 1.72–16.

(5) If pension or annuity payments or other benefits are paid or made available to the beneficiary of a deceased employee or a deceased retired employee by a trust described in section 401(a) which is exempt under section 501(a), such amounts are taxable in accordance with the rules of section 402(a) and this section. In case such amounts are taxable under section 72, the "investment in the contract" shall be determined by reference to the amount contributed by the employee and by applying the applicable rules of sections 72 and 101(b)(2)(D). In case the amounts paid to, or includible in the gross income of, the beneficiaries of the deceased employee or deceased retired employee constitute a distribution to which subparagraph (6) of this paragraph is applicable, the extent to which the distribution is taxable is determined by reference to the contributions of the employee, by reference to any prior distributions which were excludable from gross income as a return of employee contributions, and by applying the applicable rules of sections 72 and 101(b).

(6) * * *

(vi) The term "total distributions payable" does not include United States Retirement Plan Bonds held by a trust to the credit of an employee. Thus, a distribution by a qualified trust may constitute a total distributions payable with respect to an employee even though the trust retains retirement plan bonds registered in the name of such employee. Similarly, the proceeds of a retirement plan bond received as a part of the total amount to the credit of an employee will not be entitled to capital gains treatment. See section 405(e) and paragraph (a)(4) of § 1.405–3.

(vii) For purposes of determining whether the total distributions payable to an employee have been distributed within one taxable year, the term "total distributions payable" includes amounts held by a trust to the credit of an employee which are attributable to contributions on behalf of the employee while he was a self-employed individual in the business with respect to which the plan was established. Thus, a distribution by a qualified trust is not a total distributions payable with respect to an employee if the trust retains amounts which are so attributable.

(7) The capital gains treatment provided by section 402(a)(2) and subparagraph (6) of this paragraph is not applicable to distributions paid to a distributee to the extent such distributions are attributable to contributions made on behalf of an employee while he was a self-employed individual in the business with respect to which the plan was established. For the taxation of such amounts, see § 1.72–18. For the rules for determining the amount attributable to contributions on behalf of an employee while he was self-employed, see paragraphs (b)(4) and (c)(2) of such section.

(8) For purposes of this section, the term "employee" includes a self-employed individual who is treated as an employee under section 401(c)(1), and paragraph (b) of § 1.401–10, and the term "employer" means the person treated as the employer of such individual under section 401(c)(4).

PAR. 10. Section 1.403(a) is amended by revising paragraph (2)(A) of, and by adding a new paragraph (3) to, section 403(a) and by adding a historical note. These amended and added provisions read as follows:

§ 1.403(a) Statutory provisions; taxation of employee annuities; qualified annuity plan.

SEC. 403. *Taxation of employee annuities*—(a) *Taxability of beneficiary under a qualified annuity plan.* * * *

(2) *Capital gains treatment for certain distributions*—(A) *General rule.* If—

(i) An annuity contract is purchased by an employer for an employee under a plan described in paragraph (1);

(ii) Such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan; and

(iii) The total amounts payable by reason of an employee's death or other separation from the service, or by reason of the death of an employee after the employee's separation from the service, are paid to the payee within one taxable year of the payee,

then the amount of such payments, to the extent exceeding the amount contributed by the employee (determined by applying section 72(f)), which employee contributions shall be reduced by any amounts theretofore paid to him which were not includible in gross income, shall be considered a gain from the sale or exchange of a capital asset held for more than 6 months. This subparagraph shall not apply to amounts paid to any payee to the extent such amounts are attributable to contributions made on behalf of the employee while he was an employee within the meaning of section 401(c)(1).

* * * * *

(3) *Self-employed individuals.* For purposes of this subsection, the term "employee" includes an individual who is an employee within the meaning of section 401(c)(1), and the employer of such individual is the person treated as his employer under section 401(c)(4).

[Sec. 403(a) as amended by sec. 4(d), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 825)]

PAR. 11. Section 1.403(a)–1 is amended by revising paragraph (d) and by adding a new paragraph at the end thereof. These amended and added provisions read as follows:

§ 1.403(a)–1 Taxability of beneficiary under a qualified annuity plan.

* * * * *

(d) An individual contract issued after December 31, 1962, or a group contract, which provides incidental life insurance protection may be purchased under a qualified annuity plan, and the same rules which are applicable when contracts providing life insurance protection are purchased by a trust described in section 401(a) and exempt under section 501(a) are applicable in the case of such a contract. For such rules, see paragraph (b) of § 1.72–16 and paragraph (a)(2) of § 1.402(a)–1. Section 403(a) is not applicable to premiums paid after October 26, 1956, for individual contracts which were issued prior to January 1, 1963, and which provide life insurance protection.

* * * * *

(f) For purposes of this section and § 1.403(a)–2, the term "employee" includes a self-employed individual who is treated as an employee under section 401(c)(1) and paragraph (b) of § 1.401–10, and the term "employer" means the person treated as the employer of such individual under section 401(c)(4). For the rules relating to annuity plans covering self-employed individuals, see section 404(a)(2) and §§ 1.404(a)–8 and 1.401–10 through 1.401–13.

PAR. 12. Section 1.403(a)–2 is amended by revising so much of paragraph (a) as precedes subparagraph (1), by revising subparagraph (1) of paragraph (a), by adding a new subparagraph to paragraph (b), and by inserting immediately after paragraph (b) a new paragraph (c). These amended and added provisions read as follows:

§ 1.403(a)–2 Capital gains treatment for certain distributions.

(a) If the total amounts payable with respect to any employee for whom an annuity contract has been purchased by an employer under a plan which—

(1) Is a plan described in section 403(a)(1) and § 1.403(a)–1, and

* * * * *

(b) * * *

(5) For purposes of determining whether the total amounts payable to an employee have been paid within one taxable year, the term "total amounts" includes amounts under a plan which are attributable to contributions on behalf of an individual while he was self-employed in the business with respect to which the plan was established. Thus, the "total amounts" payable are not paid within one taxable year if amounts remain payable which are so attributable.

(c) The provisions of this section are not applicable to any amounts paid to a payee to the extent such amounts are attributable to contributions made on behalf of an employee while he was a self-employed individual in the business with respect to which the plan was established. For the taxation of such amounts, see § 1.72–18. For the rules for determining the amount attributable to contributions on behalf of an employee while he was self-employed, see paragraphs (b)(4) and (c)(2) of such section.

PAR. 13. Section 1.404(a) is amended by revising section 404(a)(2), by adding paragraphs (8), (9), and (10) to section 404(a), and by adding a historical note. These amended and added provisions read as follows:

§ 1.404(a) Statutory provisions; deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan; general rule.

SEC. 404. *Deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan*—(a) *General rule.*

* * *

(2) *Employees' annuities.* In the taxable year when paid, in an amount determined in accordance with paragraph (1), if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of section 401(a) (3), (4), (5), (6), (7), and (8), and, if applicable, the requirements of section 401(a) (9) and (10) and of section 401(d) (other than paragraph (1)), and if refunds of premiums, if any, are applied within the current taxable year or next succeeding taxable year towards the purchase of such retirement annuities.

* * * * *

(8) *Self-employed individuals.* In the case of a plan included in paragraph (1), (2), or (3) which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), for purposes of this section—

(A) The term "employee" includes an individual who is an employee within the meaning of section 401(c)(1), and the employer of such individual is the person treated as his employer under section 401(c)(4);

(B) The term "earned income" has the meaning assigned to it by section 401(c)(2);

(C) The contributions to such plan on behalf of an individual who is an employee within the meaning of section 401(c)(1) shall be considered to satisfy the conditions of section 162 or 212 to the extent that such contributions do not exceed the earned income of such individual derived from the trade or business with respect to which such plan is established, and to the extent that such contributions are not allocable (determined in accordance with regulations prescribed by the Secretary or his delegate) to the purchase of life, accident, health, or other insurance; and

(D) Any reference to compensation shall, in the case of an individual who is an employee within the meaning of section 401(c)(1), be considered to be a reference to the earned income of such individual derived from the trade or business with respect to which the plan is established.

(9) *Plans benefiting self-employed individuals.* In the case of a plan included in paragraph (1), (2), or (3) which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1)—

(A) The limitations provided by paragraphs (1), (2), (3), and (7) on the amounts deductible for any taxable year shall be computed, with respect to contributions on behalf of employees (other than employees within the meaning of section 401(c)(1)), as if such employees were the only employees for whom contributions and benefits are provided under the plan;

(B) The limitations provided by paragraphs (1), (2), (3), and (7) on the amounts deductible for any taxable year shall be computed, with respect to contributions on behalf of employees within the meaning of section 401(c)(1)—

(i) As if such employees were the only employees for whom contributions and benefits are provided under the plan, and

(ii) Without regard to paragraph (1)(D), the second and third sentences of paragraph (3), and the second sentence of paragraph (7); and

(C) The amounts deductible under paragraphs (1), (2), (3), and (7), with respect to contributions on behalf of any employee within the meaning of section 401(c)(1), shall not exceed the applicable limitation provided in subsection (e).

(10) *Special limitation on amount allowed as deduction for self-employed individuals.* Notwithstanding any other provision of this section, the amount allowable as a deduction under paragraphs (1), (2), (3), and (7) in any taxable year with respect to contributions made on behalf of an individual who is an employee within the meaning of section 401(c)(1) shall be an amount equal to one-half of the contributions made on behalf of such individual in such taxable year which are deductible under such paragraphs (determined with the application of paragraph (9) and of subsection (e) but without regard to this paragraph). For purposes of section 401, the amount which may be deducted, or the amount deductible, under this section with respect to contributions made on behalf of such individual shall be determined without regard to the preceding sentence.

[Sec. 404(a) as amended by sec. 3(a), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 819)]

PAR. 14. Paragraph (a)(1) of § 1.404(a)–1 is amended by adding two sentences at the end thereof. This amended provision reads as follows:

§ 1.404(a)–1 Contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan; general rule.

(a)(1) Section 404(a) prescribes limitations upon deductions for amounts contributed by an employer under a pension, annuity, stock bonus, or profit-sharing plan, or under any plan of deferred compensation. It is immaterial whether the plan covers present employees only, or present and former employees, or only former employees. Section 404(a) also governs the deductibility of unfunded pensions and death benefits paid directly to former employees or their beneficiaries (see § 1.404(a)–12). For taxable years beginning after 1962, certain self-employed individuals may be covered by pension, annuity, or profit-sharing plans. For the rules relating to the deduction of contributions on behalf of such individuals, see paragraph (a)(2) of § 1.404(a)–8 and § 1.404(e)–1.

PAR. 15. Section 1.404(a)–2 is amended by adding new paragraphs (g) and (h) at the end thereof. These added provisions read as follows:

§ 1.404(a)–2 Information to be furnished by employer claiming deductions.

* * * * *

(g) In the case of a plan which covers employees, some or all of whom are self-employed individuals and with respect to which a deduction is claimed under section 404(a) (1), (2), (3), or (7), paragraphs (a) and (b) of this section, and the provision of paragraph (d) of this section relating to the time for filing the information required by this section, shall not apply, but in lieu of the information required to be submitted by paragraphs (a) and (b) of this section, the employer shall, with the return for the taxable year in which the deduction is claimed, submit the information required by the form provided by the Internal Revenue Service for such purpose.

(h) When a custodial account forms a part of a plan for which a deduction is claimed under section 404(a) (1), (2), (3), or (7), the information which under this section is to be submitted with respect to a qualified trust must be submitted with respect to such custodial account. Thus, for purposes of this section—

(1) The term "trust" includes custodial account,

(2) The term "trustee" includes custodian, and

(3) The term "trust indenture" includes custodial agreement.

PAR. 16. Paragraph (a) of § 1.404(a)–8 is amended by revising subparagraph (2) and by adding subparagraph (4). These amended and added provisions read as follows:

§ 1.404(a)–8 Contributions of an employer under an employees' annuity plan which meets the requirements of section 401(a); application of section 404(a)(2).

(a) * * *

(2) The contributions must be paid in a taxable year of the employer which ends with or within a year of the plan for which it meets the applicable requirements with respect to discrimination set out in section 401(a) (3), (4), (5), and (6), and in the case of a taxable year of a plan beginning after, of section 401(a) (7) and (8). In the case of a plan that covers a self-employed individual, the contributions must be paid in a taxable year of the employer which begins after December 31, 1962, and which ends with or within a year of the plan for which it also meets the applicable requirements of section 401(a) (9) and (10) and of section 401(d) (other than paragraph (1)). See §§ 1.401–3, 1.401–4, 1.401–6, 1.401–7, 1.401–11, and 1.401–12. Any contributions of an employer which are paid in a taxable year of the employer ending with or within a year of the plan for which it meets the applicable requirements of section 401 may be carried over and deducted in a succeeding taxable year of the employer in accordance with section 404(a)(1)(D), whether or not such succeeding taxable year ends with or within a taxable year of the plan for which it meets the requirements set

out in section 401 (a) and (d). However, the provisions of section 404(a)(1)(D) are not applicable to contributions on behalf of self-employed individuals. Such contributions are deductible only in the taxable year in which paid. See paragraph (b)(3)(ii) of § 1.404(e)–1. The requirements set out in section 401 (a) (3), (4), (5), and (6) are considered to be satisfied for the period beginning with the date on which an annuity plan was put into effect and ending with the fifteenth day of the third month following the close of the taxable year of the employer in which the plan was put into effect, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period. See section 401(b) and § 1.401–5. It should be noted that the period in which a plan may be amended to qualify under section 401(b) ends before the date taxpayers, other than corporations, are required to file income tax returns.

* * * * *

(4) Any amounts described in subparagraph (3) of this paragraph which are attributable to contributions on behalf of a self-employed individual must be applied toward the purchase of retirement benefits. Amounts which are so applied are not contributions and thus are not taken into consideration in determining—

(i) The amount deductible with respect to contributions on his behalf, nor

(ii) In the case of an owner-employee, the maximum amount of contributions that may be made on his behalf.

PAR. 17. There are inserted immediately after § 1.404(d)–1 the following new sections:

§ 1.404(e) Statutory provisions; deduction for contributions of an employer to an employees' trust or annuity plan; special limitations for self-employed individuals.

SEC. 404. *Deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan.* * * *

(e) *Special limitations for self-employed individuals*—(1) *In general.* In the case of a plan included in subsection (a) (1), (2), or (3), which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), the amounts deductible under subsection (a) (determined without regard to paragraph (10) thereof) in any taxable year with respect to contributions on behalf of any employee within the meaning of section 401(c)(1) shall, subject to the provisions of paragraph (2), not exceed $2,500, or 10 percent of the earned income derived by such employee from the trade or business with respect to which the plan is established, whichever is the lesser.

(2) *Contributions made under more than one plan*—(A) *Overall limitation.* In any taxable year in which amounts are deductible with respect to contributions under two or more plans on behalf of an individual who is an employee within the meaning of section 401(c)(1) with respect to such plans, the aggregate amount deductible for such taxable year under all such plans with respect to contributions on behalf of such employee (determined without regard to subsection (a)(10)) shall not exceed $2,500, or 10 percent of the earned income derived by such employee from the trades or businesses with respect to which the plans are established, whichever is the lesser.

(B) *Allocation of amounts deductible.* In any case in which the amounts deductible under subsection (a) (with the application of the limitations of this subsection) with respect to contributions made on behalf of an employee within the meaning of section 401(c)(1) under two or more plans are, by reason of subparagraph (A), less than the amounts deductible under such subsection determined without regard to such subparagraph, the amount deductible under subsection (a) (determined without regard to paragraph (10) thereof) with respect to such contributions under each such plan shall be determined in accordance with regulations prescribed by the Secretary or his delegate.

(3) *Contributions allocable to insurance protection.* For purposes of this subsection, contributions which are allocable (determined under regulations prescribed by the Secretary or his delegate) to the purchase of life, accident, health, or other insurance shall not be taken into account.

[Sec. 404(e) as added by sec. 3(b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 820)]

§ 1.404(e)–1 Contributions on behalf of a self-employed individual to or under a pension, annuity, or profit-sharing plan meeting the requirements of section 401; application of section 404(a) (8), (9), and (10) and section 404 (e) and (f).

(a) *In general.* (1) The Self-Employed Individuals Tax Retirement Act of 1962 (76 Stat. 809) permits certain self-employed individuals to be treated as employees for purposes of pension, annuity, and profit-sharing plans included in paragraph (1), (2), or (3) of section 404(a). Therefore, for taxable years of an employer beginning after December 31, 1962, employer contributions to qualified plans on behalf of self-employed individuals are deductible under section 404 subject to the limitations of paragraphs (b) and (c) of this section.

(2) In the case of contributions to qualified plans on behalf of self-employed individuals, the amount deductible differs from the amount allowed as a deduction. In general, the amount deductible is 10 percent of the earned income derived by the self-employed individual from the trade or business with respect to which the plan is established, or $2,500, whichever is the lesser. This is the amount referred to in section 401 when reference is made to the amounts which may be deducted under section 404 or the amount of contributions deductible under section 404. Thus, this is the amount taken into consideration in determining whether contributions under the plan are discriminatory. The amount allowed as a deduction with respect to contributions on behalf of a self-employed individual is one-half of the amount deductible. The amount allowed as a deduction is relevant only for purposes of determining the amount an employer may deduct from gross income.

(b) *Determination of the amount deductible.* (1) If a plan covers employees, some of whom are self-employed individuals, the determination of the amount deductible is made on the basis of independent consideration of the common-law employees and of the self-employed individuals. See subparagraphs (2) and (3) of this paragraph. For purposes of determining the amount deductible with respect to contributions on behalf of a self-employed individual, such contributions shall be considered to satisfy the conditions of section 162 (relating to trade or business expenses) or 212 (relating to expenses for the production of income), but only to the extent that such contributions do not exceed the earned income of such individual derived from the trade or business with respect to which the plan is established. However, the portion of such contribution, if any, attributable to the purchase of life, accident, health, or other insurance protection shall be considered payment of a personal expense which does not satisfy the requirements of section 162 or 212. See paragraph (f) of this section. For the additional rules applicable where contributions are made by more than one employer on behalf of a self-employed individual, see paragraph (d) of this section.

(2) If contributions are made to a plan included in section 404(a) (1), (2), or (3) on behalf of employees, some of whom are self-employed individuals, the amount deductible with respect to contributions on behalf of the common-law employees covered under the plan shall be determined as if such employees were the only employees for whom contributions and benefits are provided under the plan. Accordingly, for purposes of such determination, the percentage of compensation limitations of section 404(a) (1), (3), and (7) are applicable only with respect to the compensation otherwise paid or accrued during the taxable year by the employer to the common-law employees. Similarly, the costs referred to in section 404(a)(1) (B) and (C) shall be the costs of funding the benefits of the common-law employees. Also, the provisions of section 404(a) (1)(D), (3), and (7), relating to certain carryover deductions, shall be applicable only to amounts contributed, or to the amounts deductible, on behalf of such employees.

(3) If contributions are made to a plan included in section 404(a) (1), (2), or (3) on behalf of individuals some or all of whom are self-employed individuals, the amount deductible in any taxable year with respect to contributions on behalf of such individuals shall be determined as follows:

(i) The provisions of section 404(a) (1), (2), (3), and (7) shall be applied as if such individuals were the only participants for whom contributions and benefits are provided under the plan. Thus, the costs referred to in such provisions shall be the costs of funding the benefits of the self-employed individuals. If such costs are less than an amount equal to the amount determined under subdivision (iii) of this subparagraph, the maximum amount deductible with respect to such individuals shall be the costs of their benefits.

(ii) The provisions of section 404(a) (1)(D), the second and third sentences of section 404(a)(3)(A), and the second sentence of section 404(a)(7), relat-

ing to certain carryover deductions, are not applicable to contributions on behalf of self-employed individuals. Contributions on behalf of self-employed individuals are deductible, if at all, only in the taxable year in which the contribution is paid or deemed paid under section 404(a)(6).

(iii) The amount deductible for the taxable year of the employer with respect to contributions on behalf of a self-employed individual shall not exceed the lesser of $2,500 or 10 percent of the earned income derived by such individual for such taxable year from the trade or business with respect to which the plan is established.

(iv) If a self-employed individual receives in any taxable year earned income with respect to which deductions are allowable to two or more employers, the aggregate amounts deductible shall not exceed the lesser of $2,500 or 10 percent of such earned income. See paragraph (d) of this section.

(c) *Special limitation on the amount allowed as a deduction for self-employed individuals.* The amount allowed as a deduction under sectio n404(a) (1), (2), (3), and (7) in any taxable year with respect to contributions made on behalf of a self-employed individual shall be an amount equal to one-half of the amount deductible with respect to such contributions under paragraph (b)(3) of this section. However, for purposes of section 401, the amount which may be deducted, or the amount deductible, under section 404 with respect to contributions made on behalf of self-employed individuals shall be determined without regard to the special limitation of this paragraph.

(d) *Rules applicable where contributions are made by more than one employer on behalf of a self-employed individual.* (1) Under paragraph (b)(3)(iv) of this section, if a self-employed individual receives in any taxable year earned income with respect to which deductions are allowable to two or more employers, the aggregate amounts deductible shall not exceed the lesser of $2,500 or 10 percent of such earned income. This limitation does not apply to contributions made under a plan on behalf of an employee who is not self-employed in the trade or business with respect to which the plan is established, even though such employee may be covered as a self-employed individual under a plan or plans established by other trades or businesses.

(2) In any case in which the application of subparagraph (1) of this paragraph reduces the amount otherwise deductible, the amount deductible by each employer shall be that amount which bears the same ratio to the aggregate amount deductible with respect to all trades or businesses (as determined in subparagraph (1) of this paragraph) as the earned income derived from that employer bears to the aggregate of the earned income derived from all of the trades or businesses with respect to which plans are established. The amount allowed as a deduction to each employer is one-half of the amount determined (in accordance with the preceding sentence) to be deductible by such employer.

(e) *Partner's distributive share of contributions and deductions.* For purposes of sections 702(a)(8) and 704, a partner's distributive share of contributions on behalf of self-employed individuals under a qualified pension, annuity, or profit-sharing plan is the contribution made on his behalf, and his distributive share of deductions allowed the partnership under section 404 for contributions on behalf of self-employed individuals is that portion of the deduction which is attributable to contributions made on his behalf under the plan. The contribution on behalf of a partner and the deduction with respect thereto must be accounted for separately by such partner, for his taxable year with or within which the partnership's taxable year ends, as an item described in section 702(a)(8).

(f) *Contributions allocable to insurance protection.* For purposes of determining the amount deductible with respect to contributions on behalf of a self-employed individual, amounts allocable to the purchase of life, accident, health, or other insurance protection shall not be taken into account. Such amounts are neither deductible nor considered as contributions for purposes of determining the maximum amount of contributions that may be made on behalf of an owner-employee. The amount of a contribution allocable to insurance shall be an amount equal to a reasonable net premium cost, as determined by the Commissioner, for such amount of insurance for the appropriate period. See paragraph (b)(5) of § 1.72–16.

(g) *Rules applicable to loans.* For purposes of section 404, any amount paid, directly or indirectly, by an owner-employee in repayment of any loan which under section 72(m)(4)(B) was treated as an amount received from a qualified trust or plan shall be treated as a contribution to such trust or under such plan on behalf of such owner-employee.

(h) *Definitions.* For purposes of section 404 and the regulations thereunder—

(1) The term "employee" includes an employee as defined in section 401(c)(1) and paragraph (b) of § 1.401–10, and the term "employer" means the person treated as the employer of such individual under section 401(c)(4);

(2) The term "owner-employee" means an owner-employee as defined in section 401(c)(3) and paragraph (d) of § 1.401–10;

(3) The term "earned income" means earned income as defined in section 401(c)(2) and paragraph (c) of § 1.401–10; and

(4) The term "compensation" when used with respect to an individual who is an employee described in subparagraph (1) of this paragraph shall be considered to be a reference to the earned income of such individual derived from the trade or business with respect to which the plan is established.

§ 1.404(f) Statutory provisions; deduction for contributions of an employer to an employees' trust or annuity plan; certain loan repayments considered as contributions.

SEC. 404. *Deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan.* * * *

(f) *Certain loan repayments considered as contributions.* For purposes of this section, any amount paid, directly or indirectly, by an owner-employee (within the meaning of section 401(c)(3)) in repayment of any loan which under section 72(m)(4)(B) was treated as an amount received under a contract purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) or purchased as a part of a plan described in section 403(a) shall be treated as a contribution to which this section applies on behalf of such owner-employee to such trust or to or under such plan.

[Sec. 404(f) as added by sec. 3(b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 821)]

[F.R. Doc. 63–6361; Filed, June 17, 1963; 8:50 a.m.]

[26 CFR Part 20]

ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

In order to conform the Estate Tax Regulations (26 CFR Part 20) to the provisions of section 18 of the Revenue Act of 1962, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (b)(2) of § 20.0–2 is amended to read as follows:

§ 20.0–2 General description of tax.

* * * * *

(b) *Method of determining tax; estate of citizen or resident.* * * *

(2) *Gross estate.* The first step in determining the tax is to ascertain the total value of the decedent's gross estate. The value of the gross estate includes the

value of all property to the extent of the interest therein of the decedent at the time of his death. (For certain exceptions in the case of real property situated outside the United States, see paragraphs (a) and (c) of § 20.2031–1.) In addition, the gross estate may include property in which the decedent did not have an interest at the time of his death. A decedent's gross estate for Federal estate tax purposes may therefore be very different from the same decedent's estate for local probate purposes. Examples of items which may be included in a decedent's gross estate and not in his probate estate are the following: certain property transferred by the decedent during his lifetime without adequate consideration; property held jointly by the decedent and others; property over which the decedent had a general power of appointment; proceeds of certain policies of insurance on the decedent's life; annuities; and dower or curtesy of a surviving spouse or a statutory estate in lieu thereof. For a detailed explanation of the method of ascertaining the value of the gross estate, see sections 2031 through 2044, and the regulations thereunder.

PAR. 2. Paragraph (a) of § 20.2014–2 is amended by revising the example contained therein to read as follows:

§ 20.2014–2 "First limitation".

(a) * * *

Example. At the time of his death, the decedent, a citizen of the United States, owned stock in X Corporation (a corporation organized under the laws of Country Y) valued at $80,000. In addition he owned bonds issued by X Corporation valued at $80,000. The stock and bond certificates were in the United States. Decedent left by will $20,000 of the stock and $50,000 of the bonds in X Corporation to his surviving spouse. He left the rest of the stock and bonds to his son. Under the situs rules referred to in paragraph (a)(3) of § 20.2014–1 the stock is deemed situated in Country Y while the bonds are deemed to have their situs in the United States. There is no death tax convention in existence between the United States and Country Y. The laws of Country Y provide for inheritance taxes computed as follows:

Inheritance tax of surviving spouse:	
Value of stock	$20,000
Value of bonds	50,000
Total value	70,000
Tax (16 percent rate)	11,200
Inheritance tax of son:	
Value of stock	60,000
Value of bonds	30,000
Total value	90,000
Tax (16 percent rate)	14,400

The "first limitation" on the credit for foreign death taxes is:

$$\frac{\$20{,}000+\$60{,}000}{\$70{,}000+\$90{,}000}\ \begin{matrix}\text{(factor C of the ratio stated at § 20.2014–2(a))}\\ \text{(factor D of the ratio stated at § 20.2014–2(a))}\end{matrix} \times (\$11{,}200+\$14{,}400)\ \text{(factor B of the ratio stated at § 20.2014–2(a))} = \$12{,}800.$$

PAR. 3. Section 20.2031 is amended by revising section 2031(a) and by adding a historical note to read as follows:

§ 20.2031 Statutory provisions; definition of gross estate.

SEC. 2031. *Definition of gross estate*—(a) *General.* The value of the gross estate of the decedent shall be determined by including to the extent provided for in this part, the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated.

* * * * *

[Sec. 2031 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 4. Section 20.2031–1 is amended by revising so much of paragraph (a) as precedes subparagraph (1) and by adding a new paragraph (c) thereto. These revised and added paragraphs read as follows:

§ 20.2031–1 Definition of gross estate; valuation of property.

(a) *Definition of gross estate.* Except as otherwise provided in this paragraph the value of the gross estate of a decedent who was a citizen or resident of the United States at the time of his death is the total value of the interests described in sections 2033 through 2044. The gross estate of a decedent who died before October 17, 1962, does not include real property situated outside the United States (as defined in paragraph (b)(1) of § 20.0–1). Except as provided in paragraph (c) of this section (relating to the estates of decedents dying after October 16, 1962, and before July 1, 1964), in the case of a decedent dying after October 16, 1962, real property situated outside the United States which comes within the scope of sections 2033 through 2044 is included in the gross estate to the same extent as any other property coming within the scope of those sections. In arriving at the value of the gross estate the interests described in sections 2033 through 2044 are valued as described in this section, §§ 20.2031–2 through 20.2031–9 and § 20.2032–1. The contents of sections 2033 through 2044 are, in general, as follows:

* * * * *

(c) *Real property situated outside the United States; gross estate of decedent dying after October 16, 1962, and before July 1, 1964*—(1) *In general.* In the case of a decedent dying after October 16, 1962, and before July 1, 1964, the value of real property situated outside the United States (as defined in paragraph (b)(1) of § 20.0–1) is not included in the gross estate of the decedent—

(i) Under section 2033, 2034, 2035(a), 2036(a), 2037(a), or 2038(a) to the extent the real property, or the decedent's interest in it, was acquired by the decedent before February 1, 1962;

(ii) Under section 2040 to the extent such property or interest was acquired by the decedent before February 1, 1962, or was held by the decedent and the survivor in a joint tenancy or tenancy by the entirety before February 1, 1962, or

(iii) Under section 2041(a) to the extent that before February 1, 1962, such property or interest was subject to a general power of appointment (as defined in section 2041) possessed by the decedent.

(2) *Certain property treated as acquired before February 1, 1962.* For purposes of this paragraph real property situated outside the United States (including property held by the decedent and the survivor in a joint tenancy or tenancy by the entirety), or an interest in such property or a general power of appointment in respect of such property, which was acquired by the decedent after January 31, 1962, is treated as acquired by the decendent before February 1, 1962, if

(i) Such property, interest, or power was acquired by the decedent by gift within the meaning of section 2511, or from a prior decedent by devise or inheritance, or by reason of death, form of ownership, or other conditions (including the exercise or nonexercise of a power of appointment); and

(ii) Before February 1, 1962, the donor or prior decedent had acquired the property or his interest therein or had possessed a power of appointment in respect thereof.

(3) *Certain property treated as acquired after January 31, 1962.* For purposes of this paragraph that portion of capital additions or improvements made after January 31, 1962, to real property situated outside the United States is, to the extent that it materially increases the value of the property, treated as real property acquired after January 31, 1962. Accordingly, the gross estate may include the value of improvements on unimproved real property, such as office buildings, factories, houses, fences, drainage ditches, and other capital items, and the value of capital additions and improvements to existing improvements, placed on real property after January 31, 1962, whether or not the value of such real property or existing improvements is included in the gross estate.

PAR. 5. Section 20.2033 is amended and a historical note added to read as follows:

§ 20.2033 Statutory provisions; property in which the decedent had an interest.

SEC. 2033. *Property in which the decedent had an interest.* The value of the gross estate shall include the value of all property to the extent of the interest therein of the decedent at the time of his death.

[Sec. 2033 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 6. Paragraph (a) of § 20.2033–1 is amended to read as follows:

§ 20.2033–1 Property in which the decedent had an interest.

(a) *In general.* The gross estate of a decedent who was a citizen or resident of the United States at the time of his death includes under section 2033 the value of all property, whether real or personal, tangible or intangible, and wherever situated, beneficially owned by the decedent at the time of his death. (For certain exceptions in the case of real property

situated outside the United States, see paragraphs (a) and (c) of § 20.2031–1.) Real property is included whether it came into the possession and control of the executor or administrator or passed directly to heirs or devisees. Various statutory provisions which exempt bonds, notes, bills, and certificates of indebtedness of the Federal Government or its agencies and the interest thereon from taxation are generally not applicable to the estate tax, since such tax is an excise tax on the transfer of property at death and is not a tax on the property transferred.

PAR. 7. Section 20.2034 is amended and a historical note added to read as follows:

§ 20.2034 Statutory provisions; dower or curtesy interests.

SEC. 2034. *Dower or curtesy interests.* The value of the gross estate shall include the value of all property to the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower or curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy.

[Sec. 2034 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 8. Section 20.2035 is amended by revising section 2035(a) and by adding a historical note to read as follows:

§ 20.2035 Statutory provisions; transactions in contemplation of death.

SEC. 2035. *Transactions in contemplation of death*—(a) *General rule.* The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, in contemplation of his death.

* * * * *

[Sec. 2035 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 9. Section 20.2036 is amended by revising the material preceding paragraph (1) of section 2036(a) and by adding a historical note to read as follows:

§ 20.2036 Statutory provisions; transfers with retained life estate.

SEC. 2036. *Transfers with retained life estate*—(a) *General rule.* The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death—

* * * * *

[Sec. 2036 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 10. Section 20.2037 is amended by revising the material preceding paragraph (1) of section 2037(a) and by adding a historical note to read as follows:

§ 20.2037 Statutory provisions; transfers taking effect at death.

SEC. 2037. *Transfers taking effect at death*—(a) *General rule.* The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time after September 7, 1916, made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, if—

* * * * *

[Sec. 2037 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 11. Section 20.2038 is amended by revising the material preceding paragraph (1) of section 2038(a) and by adding a historical note to read as follows:

§ 20.2038 Statutory provisions; revocable transfers.

SEC. 2038. *Revocable transfers*—(a) *In general.* The value of the gross estate shall include the value of all property—

* * * * *

[Sec. 2038 as amended by Act of Aug. 7, 1959 (Public Law 86–141, 73 Stat. 288); sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 12. Section 20.2040 is amended and a historical note added to read as follows:

SEC. 2040. *Joint interests.* The value of the gross estate shall include the value of all property to the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: *Provided,* That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further,* That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants.

[Sec. 2040 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 13. Section 20.2041 is amended by revising the material preceding paragraph (1) of section 2041(a) and by adding a historical note to read as follows:

§ 20.2041 Statutory provisions; powers of appointment.

SEC. 2041. *Powers of appointment*—(a) *In general.* The value of the gross estate shall include the value of all property—

* * * * *

[Sec. 2041 as amended by sec. 18, Revenue Act 1962 (76 Stat. 1052)]

PAR. 14. Section 20.2053–7 is amended by revising the last sentence. Section 20.2053–7 as so amended reads as follows:

§ 20.2053–7 Deduction for unpaid mortgages.

A deduction is allowed from a decedent's gross estate of the full unpaid amount of a mortgage upon, or of any other indebtedness in respect of, any property of the gross estate, including interest which had accrued thereon to the date of death, provided the value of the property, undiminished by the amount of the mortgage or indebtedness, is included in the value of the gross estate. If the decedent's estate is liable for the amount of the mortgage or indebtedness, the full value of the property subject to the mortgage or indebtedness must be included as part of the value of the gross estate; the amount of the mortgage or indebtedness being in such case allowed as a deduction. But if the decedent's estate is not so liable, only the value of the equity of redemption (or the value of the property, less the mortgage or indebtedness) need be returned as part of the value of the gross estate. In no case may the deduction on account of the mortgage or indebtedness exceed the liability therefor contracted bona fide and for an adequate and full consideration in money or money's worth. See § 20.2043–1. Only interest accrued to the date of the decedent's death is allowable even though the alternate valuation method under section 2032 is selected. In any case where real property situated outside the United States does not form a part of the gross estate, no deduction may be taken of any mortgage thereon or any other indebtedness in respect thereof.

PAR. 15. Section 20.2103–1 is amended to read as follows:

§ 20.2103–1 Estates of nonresidents not citizens; "entire gross estate".

The "entire gross estate" wherever situated of a nonresident who was not a citizen of the United States at the time of his death is made up in the same way as the "gross estate" of a citizen or resident of the United States. See §§ 20.2031–1 through 20.2044–1. See paragraphs (a) and (c) of § 20.2031–1 for the circumstances under which real property situated outside the United States is excluded from the gross estate of a citizen or resident of the United States. However, in the case of a nonresident not a citizen, only that part of the entire gross estate which is situated in the United States is included in his taxable estate. In fact, property situated outside the United States need not be disclosed on the return unless certain deductions are claimed or information is specifically requested. See §§ 20.2106–1 and 20.2106–2. For a description of property considered to be situated in the United States, see § 20.2104–1. For a description of property considered to be situated outside the United States, see § 20.2105–1.

[F.R. Doc. 63–6360; Filed, June 17, 1963; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 723, 724, 725, 727]

TOBACCO

Proposed Regulations Relating to Marketing, Collection of Marketing Penalties, and Records and Reports for 1963–64 and Subsequent Marketing Years

Notice is hereby given that, pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.), marketing quota regulations are being prepared governing the issuance of marketing cards for marketing and price support purposes, the identification of tobacco for purposes of marketing restrictions and price support, the collection and refund of penalties and the records and reports incident thereto on the marketing of the 1963 and subsequent crops of burley, flue-cured, fire-cured (type 21), fire-cured (types 22, 23 and 24), dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), cigar-filler and binder (types 42, 43, 44, 53, 54 and 55), and Maryland tobacco.

As presently contemplated, the regulations will be the same as those for the 1962–63 marketing year (burley, flue-cured, fire-cured, dark air-cured and Virginia sun-cured tobacco (27 F.R. 5849, 6187); cigar-binder (types 51 and 52); cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco (27 F.R. 6371); and Maryland tobacco (27 F.R. 6593, 10082)); except, in addition to changes made for clarification and to simplify procedures:

1. A single set of continuing regulations covering the marketing of tobacco, collection of marketing penalties, and records and reports for the 1963–64 and subsequent marketing years will be issued for burley, flue-cured, fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) and Maryland tobacco.

2. Failure of a farm operator to return a tobacco marketing card which was issued to him within fifteen (15) days after written request by certified mail from the county office manager would constitute failure to account for disposition of tobacco marketed from the farm unless disposition of all tobacco marketed from the farm is otherwise accounted for to the satisfaction of the county committee, rather than to the State committee, as is provided for in the 1962–63 regulations (725.1352, 723.1352, and 727.1352).

3. As to Maryland tobacco, the system in effect during the 1962–63 marketing year under which an excess marketing card (MQ–77, Excess Maryland Marketing Card) marked "carryover" was used to identify producer sales of carryover tobacco and another card (either an MQ–76, Within Quota Maryland Marketing Card, or MQ–77, Excess Maryland Marketing Card) was used to identify producer sales of tobacco from the current crop, will be discontinued. In lieu thereof, one tobacco card would be issued for a farm. The card to be issued for within quota tobacco on a farm (carryover and current crop) would be an MQ–76, Within Quota Maryland Marketing Card (non-penalty), and an MQ–77, Excess Maryland Marketing Card (denying price support) would be issued for a farm where there is excess carryover tobacco not totally compensated for by underplanting, and where there is excess tobacco from the current crop.

Prior to the final adoption and issuance of these regulations, consideration will be given to any data, views and recommendations pertaining thereto which are submitted in writing to the Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington 25, D.C. All submissions must be postmarked not later than ten days after the date of filing of this notice in the FEDERAL REGISTER in order to be considered.

Signed at Washington, D.C. on June 13, 1963.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63–6320; Filed, June 17, 1963; 8:45 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71 [New]]

[Airspace Docket No. 63–SO–11]

CONTROL ZONE, TRANSITION AREA, AND CONTROL AREA EXTENSION

Proposed Alteration, Designation, and Revocation

Notice is hereby given that the Federal Aviation Agency is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The following controlled airspace is designated in the Daytona Beach, Fla., terminal area:

1. The Daytona Beach control zone is designated as that airspace within a 5-mile radius of the Daytona Beach Airport; within 2 miles each side of the Datona Beach VOR 156° and 336° True radials, extending from the 5-mile radius zone to 1 mile north of the VOR; and within 2 miles each side of the 065° and 245° True bearings from the Daytona Beach ILS outer marker, extending from the 5-mile radius zone to 2 miles southwest of the outer marker.

2. The Daytona Beach control area extension is designated as that airspace within 10 miles west and 7 miles east of the Daytona Beach VOR 357° and 177° True radials, extending from 9 miles south to 20 miles north of the VOR and within 5 miles each side of the Daytona Beach VOR 244° True radial, extending from the VOR to 20 miles southwest, excluding the portion outside the United States.

To implement the provisions of CAR Amendments 60–21/60–29 in the Daytona Beach terminal area, the Federal Aviation Agency has under consideration the following airspace actions:

1. Redesignate the Daytona Beach control zone to comprise that airspace within a 5-mile radius of the Daytona Beach Airport (latitude 29°11'05" N., longitude 81°03'20" W.); within 2 miles each side of the Daytona Beach VOR 156° and 336° True radials, extending from the 5-mile radius zone to 1 mile north of the VOR; and within 2 miles each side of the 065° True bearing from the Daytona Beach outer marker, extending from the 5-mile radius zone to the outer marker.

2. Revoke the Daytona Beach control area extension and designate the Daytona Beach transition area. The proposed transition area would comprise that airspace extending upward from 700 feet above the surface within 8 miles northwest and 5 miles southeast of the Daytona Beach ILS localizer southwest course, extending from the outer marker to 12 miles southwest; within 2 miles each side of the 236° True bearing from the Daytona Beach outer marker, extending from the outer marker to the intersection of the Daytona Beach VOR 219° True radial and the Orlando, Fla., VOR 353° True radials; that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 29°33'00" N., on the west by the western edge of V–267, on the south by latitude 28°58'00" N., on the east by the limits of the territorial waters of the United States, and that airspace north of Daytona Beach bounded on the east by V–3, on the south by latitude 29°33'00" N., on the west by V–267.

3. The floors of the airways that traverse the proposed transition area would automatically coincide with the floor of the transition area.

The proposed alteration of the Daytona Beach control zone would reduce the length of the southwest extension by terminating it at the outer marker. The portion southwest of the outer marker would no longer be required. The remainder of the control zone would continue to provide protection for aircraft executing prescribed instrument approach and departure procedures at the Daytona Beach Airport, and for aircraft arriving and departing the Ormond Beach Airport.

The proposed transition area would raise the floor of controlled airspace beyond the immediate vicinity of the Daytona Beach Airport from 700 to 1,200 feet above the surface and, as a result, would make such airspace available for other uses, yet sufficient controlled airspace would be retianed to provide adequate protection for aircraft executing prescribed holding, arrival and departure procedures within the Daytona Beach terminal area. The actions proposed herein would require no change to prescribed instrument procedures.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be

submitted in triplicate to the Assistant Administrator, Southern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 20636, Atlanta 20, Georgia. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on June 11, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63-6343; Filed, June 17, 1963; 8:46 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 63-WE-3]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

Notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The following controlled airspace is presently designated in the Yakima, Wash., terminal area:

1. The Yakima control zone is designated within a 5-mile radius of Yakima Municipal Airport.

2. The Yakima transition area is designated as that airspace extending upward from 1,200 feet above the surface within 5 miles east and 8 miles west of the Ellensburg, Wash., VORTAC 191° True radial, extending from 8 miles south to 15 miles north of the intersection of the Ellensburg VORTAC 191° and the Yakima VOR 304° True radials.

The FAA, having completed a comprehensive review of the terminal airspace structure requirements in the Yakima area, including studies attendant to the implementation of the provisions of CAR Amendments 60-21/60-29, has under consideration the following airspace actions:

1. After the Yakima control zone by redesignating it to comprise that airspace within a 5-mile radius of Yakima Municipal Airport (latitude 46°33'55" N., longitude 120°32'25" W.), and within 2 miles each side of the Yakima ILS localizer east course, extending from the 5-mile radius zone to 1 mile west of the LOM.

2. Alter the Yakima transition area by redesignating it to comprise that airspace extending upward from 700 feet above the surface within 2 miles northeast and 3 miles southwest of the Yakima VOR 129° and 309° True radials, extending from 2 miles northwest to 7 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within 5 miles east and 8 miles west of the Ellensburg, Wash., VORTAC 191° True radial, extending from 8 miles south to 13 miles north of the Gleed Intersection (intersection of the Ellensburg VORTAC 191° and the Yakima VOR 304° True radials); within 5 miles east and 8 miles west of the Yakima VOR 198° True radial, extending from the VOR to 29 miles south of the VOR; within 5 miles northeast and 8 miles southwest of the Yakima VOR 309° and 129° True radials, extending from 5 miles northwest to 12 miles southeast of the VOR; and within 5 miles north and 8 miles south of the Yakima ILS localizer east course, extending from the LOM to 12 miles east of the LOM, excluding the portion within R-6714.

The floors of the airways that traverse the transition area proposed herein would automatically coincide with the floors of the transition area.

The actions proposed herein would increase the size of the presently designated control zone at Yakima by the addition of a control zone extension east of Yakima to provide protection for air craft executing prescribed ILS instrument approach procedures at Yakima Municipal Airport. The portion of the proposed transition area with a floor of 700 feet above the surface would provide protection for aircraft executing prescribed VOR and ILS instrument approach and departure procedures at Yakima Municipal Airport. The portion with a floor of 1,200 feet above the surface would provide protection for aircraft while holding at the Yakima VOR, for portions of the instrument approach and departure procedures conducted above 1,500 feet above the surface, and for aircraft executing prescribed instrument holding pattern procedures within the Yakima terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue N.W., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on June 11, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63-6344; Filed, June 17, 1963; 8:46 a.m.]

[14 CFR Part 71 [New]]

[Airspace Docket No. 63-WA-15]

CONTROLLED AIRSPACE

Proposed Alteration and Designation

In consonance with ICAO International Standards and Recommended Practices, notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations. In addition, proposed nonrule-making actions to alter Warning Areas W-260, W-283 and W-513 are contained herein. This proposal relates to navigable airspace both within and outside the United States.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the judisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility

may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state the U.S. agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves in part the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

On January 11, 1962, new aircraft holding pattern procedures were implemented within the continental limits of the United States and in areas beyond such limits where adequate controlled airspace was currently established. Procedures requiring the designation of additional controlled airspace beyond the continental limits will be implemented upon completion of the processing of appropriate amendments to the Federal Aviation Regulations. These procedures were developed to accommodate the increasing variety of aircraft speeds and operating altitudes in the IFR environment and provide for the containment of aircraft holding maneuvers within the holding pattern areas designed for such operation. However, a number of these holding pattern areas require the designation of additional controlled airspace to encompass the increased dimensions of such areas. The pilot then need only adhere to the standardized operating procedures and limitations for his type aircraft to remain within controlled airspace.

Since the proposed designation of airspace described herein overlies a portion of Warning Areas W–260, W–283 and W–513, modification of these warning areas is required. Therefore, the Agency, is including the proposed nonrule-making actions to modify the warning areas. This would expedite the proposed rule-making action and thus permit utilization of the holding pattern procedures at the earliest possible date.

To fulfill additional controlled airspace requirements for the implementation of these procedures in the Oakland, Calif., Air Route Traffic Control Center area, the Federal Aviation Agency is considering the following airspace actions:

A. Rule-making action.

1. The Point Reyes, Calif., transition area would be designated as that airspace extending upward from 1,200 feet above the surface north of Pt. Reyes bounded on the northeast and east by low altitude airway V–27, on the southwest by low altitude airway V–137, and on the west by low altitude airway V–199; and west of Pt. Reyes bounded on the east by low altitude airway V–199, on the south by Control 1173 (§ 71.163), and on the west and north by a line extending from latitude 38°02'35" N., longitude 123°14'25" W., to latitude 38°17'30" N., longitude 123°16'45" W., thence to latitude 38°25'30" N., longitude 123°23'00" W., thence to 38°43'30" N., longitude 123°23'15" W., thence along latitude 38°43'30" N., to low altitude airway V–199. This would provide protection for aircraft in holding patterns at the Fort Ross Intersection (intersection of the Ukiah, Calif., VOR 172° and the Williams, Calif., VORTAC 243° True radials), the Bodega Intersection (intersection of the Ukiah, Calif., VOR 172° and the Pt. Reyes, Calif., VOR 306° True radials), and the Marin Intersection (intersection of the San Francisco, Calif., VOR 304° and the Pt. Reyes, Calif., VOR 242° True radials).

2. The Monterey, Calif., control area extension (§ 71.165) would be redesignated as that airspace east and southeast of Monterey, Calif., bounded on the north by low altitude airway V–230, on the east by a line extending from the intersection of the south edge of low altitude airway V–230 and the west edge of low altitude airway V–111 to latitude 36°11'00" N., longitude 121°26'00" W., thence to latitude 35°50'30" N., longitude 121°15'15" W., thence through latitude 35°40'00" N., longitude 121°11'30" W., to low altitude airway V–27, and on the southwest and west by low altitude airway V–27, excluding the portions of airspace within R–2511 and R–2513; the airspace to the west of Monterey, bounded on the east by low altitude airway V–27, on the north by Control 1173, and on the west and south by a line extending from Control 1173 through latitude 37°00'00" N., longitude 122°36'30" W., to latitude 36°33'00" N., longitude 122°17'00" W., thence through latitude 36°30'00" N., longitude 122°04'00" W., to low altitude airway V–27; and the airspace to the south of Monterey bounded on the east by low altitude airway V–27, and on the northwest, west and south by a line extending from low altitude airway V–27 along longitude 121°57'30" W., to latitude 36°18'00" N., thence to latitude 35°58'00" N., longitude 121°50'-15" W., thence to latitude 35°45'00" N., longitude 121°40'15" W., thence to latitude 35°29'00" N., longitude 121°21'00" W., thence along latitude 35°29'00" N. to low altitude airway V–27. This would provide protection for aircraft in holding patterns at Pt. Ano Intersection (intersection of the Pt. Reyes, Calif., VOR 161° and the Woodside, Calif., VOR 204° True radials), the Shark Intersection (intersection of the Big Sur, Calif., VOR 325° and the Salinas, Calif., VORTAC 281° True radials), the 8 nautical-mile fix on the Navy Monterey, Calif., TACAN 290° True radial, the Big Sur, Calif., VOR on the 157° and 325° True radials, the Blancas Intersection (intersection of the Paso Robles, Calif., VOR 267° and the San Luis Obispo, Calif., VORTAC 308° True radials), and the Monterey compass locator on the 113° True bearing to the compass locator.

3. The Big Sur, Calif., transition area would be designated as that airspace extending upward from 18,000 feet MSL to flight level 240 west of Big Sur, Calif., bounded on the east by intermediate altitude airway V–1607 and the Monterey, Calif., control area extension as proposed herein, on the southwest, west and northwest by a line extending from the western boundary of the Monterey, Calif., control area extension as proposed herein, through latitude 35°58'45" N., longitude 121°56'45" W., to latitude 35°53'00" N., longitude 122°09'30" W., thence to latitude 35°53'00" N., longitude 122°19'00" W., thence to latitude 36°06'00" N., longitude 122°25'30" W., thence through latitude 36°23'10" N., longitude 122°13'35" W., to the Monterey Control area extension. This would provide protection for aircraft in the holding pattern at the 23 nautical-mile fix on the Navy Monterey, Calif., TACAN 212° True radial.

4. The descriptions of low altitude VOR Federal airway Nos. 27 and 230 (§ 71.123) would be altered to delete reference to the exclusions of the portions which presently coincide with Warning Area W–283 inasmuch as the nonrule-making proposals herein would move the eastern boundary of W–283 to the west.

The floors of the control area extension contained herein would remain as designated pending completion of a review of the controlled airspace requirements throughout this area. Separate airspace action will be initiated at a later date to implement on an area basis the provisions of Amendments 60–21 and 60–29 to Part 60 of the Civil Air Regulations.

B. Nonrule-making action.

1. The San Francisco, Calif., Warning Area W–260 would be altered to read:

Beginning at latitude 39°00'00" N., longitude 123°56'30" W.; thence to latitude 38°07'00" N., longitude 123°15'10" W.; thence to latitude 38°02'35" N., longitude 123°14'25" W.; thence to latitude 38°00'00" N., longitude 123°23'00" W.; thence to latitude 37°50'00" N., longitude 124°24'30" W.; thence to latitude 38°05'30" N., longitude 125°22'00" W.; thence to latitude 38°52'00" N., longitude 125°52'30" W.; to point of beginning.

2. The Point Reyes, Calif., Warning Area W–513 would be altered to read:

Beginning at latitude 38°02'35" N., longitude 123°14'25" W.; thence to latitude 37°56'15" N., longitude 123°13'25" W.; thence to latitude 37°50'45" N., longitude 123°02'50" W.; thence to latitude 37°47'00" N., longitude 123°00'00" W.; thence to latitude 37°43'00" N., longitude 124°00'00" W.; thence to latitude 37°50'00" N., longitude 124°24'30" W.; thence to latitude 38°00'00" N., longitude 123°23'00" W.; to point of beginning.

3. The San Francisco, Calif., Warning Area W–283 would be altered to read:

Beginning at latitude 37°05'15" N., longitude 122°43'20" W.; thence to latitude 35°58'20" N., longitude 121°56'20" W.; thence to latitude 35°06'00" N., longitude 123°47'00" W.; thence to latitude 36°20'00" N., longitude 124°18'00" W.; to point of beginning excluding the portion which would coincide with the Big Sur, Calif., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Av-

enue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under sections 307(a), and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565.

Issued in Washington, D.C., on June 11, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63-6345; Filed, June 17, 1963; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 15028]

RADIO BROADCAST SERVICES

Subscriber Background Music; Order Extending Time for Filing Comments and Reply Comments

In the matter of Amendment of Part 3—Radio Broadcast Services—to proscribe the "simplex" transmission of subscriber background music by FM Broadcast Stations, and to make related changes (including the proscription of superaudible control signals except as specifically authorized by the Commission and simplification of SCA logging requirements).

1. On June 5, 1963, a "Request for Additional Time to File Comments" was entered in this proceeding on behalf of Functional Music, Inc., licensee of Radio Station WFMF, Chicago, Illinois. An extension of time from June 14 to June 28, 1963, is requested for "final review and coordination" of the movant's comments.

2. In view of the complexity of the issues involved in this proceeding and their impact on Functional Music's simplexing operations, a grant of the requested two-week extension appears to be warranted.

3. *Accordingly, it is ordered,* This 12th day of June 1963, that the June 14 deadline for the filing of comments herein is hereby extended through June 28, 1963, to which reply comments may be filed through July 8, 1963; *And it is further ordered,* That the above-mentioned request is granted.

4. Authority for the action taken herein is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and in § 0.241(d)(8) of the Commission's rules.

Released: June 13, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 63-6387; Filed, June 17, 1963; 8:57 a.m.]

[47 CFR Parts 31, 35]

[Docket No. 14850 (RM-377), (RM-381)]

UNIFORM SYSTEMS OF ACCOUNTS FOR CLASS A AND CLASS B TELEPHONE COMPANIES AND FOR WIRE TELEGRAPH AND OCEAN-CABLE CARRIERS

Proposed Accounting for Investment Credits Made Available by Revenue Act of 1962; Correction

In the Commission's order released June 7, 1963 (FCC 63-514, Mimeo 35855), in the last ordering clause the figure "45" should read "40".

Released: June 13, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 63-6388; Filed, June 17, 1963; 8:57 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

U.S. AMBASSADOR TO REPUBLIC OF COLOMBIA

Delegation of Authority To Execute Loan Agreement

JUNE 7, 1963.

Pursuant to the authority delegated to me by the United States Coordinator for the Alliance for Progress, I hereby delegate to the United States Ambassador to the Republic of Colombia the authority to execute loan agreement for the following loan: A.I.D. Loan No. 514–L–026–Colombia: Supervised Agricultural Credit.

The authority delegated hereunder shall be exercised in accordance with the loan authorization for said loan.

The authority delegated hereunder may be redelegated to the Director of the United States A.I.D. Mission to Colombia.

This delegation shall continue in full force and effect until July 31, 1963.

PHILIP GLAESSNER,
Deputy Assistant Administrator for Capital Development.

JUNE 7, 1963.

[F.R. Doc. 63–6399; Filed, June 17, 1963; 9:00 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 55917]

[Customs Delegation Order 20]

DETERMINATION OF DOMESTIC VALUE OF CERTAIN ARTICLES SEIZED UNDER CUSTOMS LAWS

Transfer of Function From Appraisers of Merchandise to Collectors of Customs

JUNE 10, 1963.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 724), I hereby transfer from the appraisers of merchandise to the collectors of customs the function under section 606 of the Tariff Act of 1930 (19 U.S.C. 1606) of determining the domestic value, at the time and place of appraisement, of any vessel, vehicle, merchandise, or baggage seized under the customs laws, in any case where the aggregate value of the seizure does not exceed $500.

I also authorize the supervising customs agents, or other officers of the Customs Agency Service designated by them, to perform said function in any case where the aggregate value of the seizure does not exceed $100 and the seizure was made by an officer of the Customs Agency Service.

This order supersedes Customs Delegation Order No. 15, dated September 24, 1959 (T.D. 54949, 24 F.R. 7968).

[SEAL] PHILIP NICHOLS, Jr.,
Commissioner of Customs.

[F.R. Doc. 63–6384; Filed, June 17, 1963; 8:56 a.m.]

Office of the Secretary

[Dept. Circ. 570, 1962 Rev. Supp. 34]

MARYLAND NATIONAL INSURANCE CO.

Extension of Authority To Qualify as Surety on Federal Bonds to July 31, 1963, and the Termination of Such Authority on That Date

Notice is hereby given that the Certificate of Authority issued by the Secretary of the Treasury to Maryland National Insurance Company, Bel Air, Maryland, under the provisions of the Act of Congress approved July 30, 1947 (6 U.S.C. 6–13), to qualify as sole surety on recognizances, stipulations, bonds and undertakings permitted or required by the laws of the United States which had previously been extended to June 12, 1963, has been further extended to July 31, 1963, and will terminate on that date.

The following actions should be taken effective August 1, 1963:

1. In order that there may be a coordinated record showing the status of outstanding bonds of this company in favor of the United States, bond-approving officers are requested to examine carefully the records of their offices and report to the Surety Bonds Branch, Bureau of Accounts, Treasury Department, all outstanding bonds accepted by them and executed by Maryland National Insurance Company, Bel Air, Maryland, as surety or co-surety on which the liability of the company has not terminated as of July 31, 1963.

2. It is also requested that the Surety Bonds Branch be advised as expeditiously as possible as to all facts, in detail, relating to any existing claim, or with respect to the occurrence of any event or the existence of any circumstance which may hereafter result in a claim against Maryland National Insurance Company, Bel Air, Maryland.

3. In furnishing the above information, bond-approving officers will please give the name of the principal on the bond, the date and penalty of the bond and with respect to claims, the nature of the claim, the circumstances out of which it arose, and its status at the time of the report.

4. Bond-approving officers and other agents of the Government charged with the duty of taking bonds, recognizances, stipulations or undertakings should proceed immediately to secure new bonds, where necessary, with acceptable sureties in lieu of bonds executed by Maryland National Insurance Company, Bel Air, Maryland.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 63–6359; Filed, June 17, 1963; 8:49 a.m.]

DEPARTMENT OF DEFENSE

Department of the Army

BUY AMERICAN ACT

Determination of Violation

Pursuant to the authority contained in section 3(b) of the Buy American Act (47 Stat. 1520; 41 U.S.C. 10b(b)), the Assistant Secretary of the Army (Installations and Logistics) has issued a finding, as follows:

(a) That on September 14, 1960 the Beacon Construction Company of Massachusetts, Inc., and John A. Volpe Construction Company, Inc., joint ventures doing business as the Volpe-Beacon Construction Company, 100 Hano Street, Boston, Massachusetts, entered into Contract No. DA–19–016–ENG–6682 with the United States for the construction of 1,199 Capehart family housing units at Fort Devens, Ayer, Massachusetts.

(b) That Contract No. DA–19–016–ENG–6682, as required by section 3(a) of the Buy American Act, provided that, except in case of special findings of nonavailability, impracticability, or unreasonably cost, only domestic construction materials might be used in its performance.

(c) That on or about September 26, 1960 the Volpe-Beacon Construction Company entered into a subcontract with the Appalachian Flooring Company, a corporation, 33 Park Street, Somerville, Massachusetts, for the installation of flooring in the 1,199 family housing units at Fort Devens, including the installation of marble thresholds in their bathrooms. The subcontract was to be performed subject to all the responsibilities and obligations of Contract No. DA–19–016–ENG–6682.

(d) That prior to and during the period August–November 1961, Charles J. Auditore, 41 Maple Street, Malden, Massachusetts, was the President and principal officer of the Appalachian Flooring Company, and in substantial control of its operations.

(e) That during the period August–November 1961, in the performance of its subcontract with the Volpe-Beacon Construction Company, the Appalachian Flooring Company knowingly installed about 800 marble thresholds, cut and processed in Italy, in family housing units at Fort Devens. The thresholds were not excepted from the Buy American Act restrictions.

(f) That, in the performance of its subcontract with the Volpe-Beacon Con-

struction Company, the Appalachian Flooring Company, together with its President, Charles J. Auditore, failed to comply with the provisions of the Buy American Act.

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 63-6339; Filed, June 17, 1963; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Anchorage Townsite; Notice of Sale of Lots

JUNE 11, 1963.

1. Notice is hereby given that there will be offered at public sale to the highest bidder at 11 a.m. on July 26, 1963, in the Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska, the lots listed at the end of this notice.

2. These lots will be sold at not less than the appraised price. No bid exceeding that amount will be accepted unless made in multiples of $10. Bids may be made personally by an individual or his agent at the sale. When there are no further offers, the lots will be declared sold to the last and highest bidder.

3. The three lots herein offered are occupied and improved. The three lots will be sold in two parcels, Lot 1 individually, and Lots 2 and 3 combined as a unit. The occupant of Lot 1 has a preference right to purchase the lot at the appraised price. The occupant of Lots 2 and 3 has no preference right of purchase and these two lots, as a unit, will be put up for auction. The successful bidder, if other than the occupant, will be required to purchase the improvements located thereon as a condition of this sale.

4. Payment for the lot can be made by personal check, with at least one-sixth of the purchase price paid on the date of the sale and the balance paid in not less than 5 equal annual installments with interest at the rate of 4 percent per annum to the date of the payment. The deferred installments, with the interest, must be paid to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska.

5. Notice is hereby given to the right of the undersigned or his agent to reappraise the lots, or to adjourn, postpone, or vacate this sale in whole or in part at any time prior to, during, or after completion of the sale session where such action appears to be necessary to protect the government's interest in the land.

6. A qualified purchaser of each lot in this sale will, upon tendering full payment thereof, receive a receipt as evidence of the sale. Patent will be issued to the purchaser at a later date without any further compliance or action upon the purchaser's part.

7. Inquiries concerning these lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska.

8. All persons are warned against violation of the provisions of 18 U.S.C., 1860, prohibiting unlawful combinations or intimidation of bidders.

9. Following are the lots being offered for sale, the area embraced by each, and the minimum acceptable bids for these lots:

North Addition No. 7, Townsite of Anchorage U.S. Survey No. 3458, A & B Alaska, Block Z:

Lot 1 (8,563 sq. ft.)	$6,250
Lots 2 and 3 (offered as a single unit) (17,371 sq. ft.)	11,250

GEORGE E. M. GUSTAFSON,
Superintendent of Sales,
Alaska Railroad Townsite.

[F.R. Doc. 63-6346; Filed, June 17, 1963; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 435]

MARKET AGENCIES AT UNION STOCK YARDS

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on May 9, 1963, authorizing the respondents, Market Agencies at the Union Stock Yards, Denver, Colorado, to assess the current temporary schedule of rates and charges to and including July 31, 1964, unless modified or extended by further order before the latter date.

On May 31, 1963, a petition was filed on behalf of the respondents requesting authority to modify the current temporary schedule of rates and charges (Tariff No. 20) by deleting subsection (a) of section E of Article 2, thereby increasing the buying charges for sheep as indicated below:

	Charge per head Present	Proposed
Sheep: Consignments of one head and one head only	$0.50	$0.60
Consignments of more than one head:		
First 10 head in each 225 head in each consignment	.40	.48
Next 50 head in each 225 head in each consignment	.22	.26
Next 60 head in each 225 head in each consignment	.18	.22
Next 105 head in each 225 head in each consignment	.14	.17

Inasmuch as the modification, if authorized, will produce additional revenue for the respondents and increase the buying charges for sheep, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., within 15 days after the publication of this notice.

Done at Washington, D.C., this 11th day of June 1963.

DONALD A. CAMPBELL,
Director, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 63-6357; Filed, June 17, 1963; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case 319]

OTTO POESCHL AND ARGA WARENHANDELSGESELLSCHAFT

Default Order Denying Export Privileges

In the matter of Otto Poeschl, individually and trading as Arga Warenhandelsgesellschaft, 6 Traklgasse, Vienna XIX, Austria, respondents, Case No. 319.

By Charging Letter dated April 4, 1963, the Acting Director, Export Control Investigations Division, charged the respondents, Otto Poeschl and the firm Arga Warenhandelsgesellschaft, of which he is sole owner and manager, with violations of the Export Control Act of 1949 as amended, and regulations issued thereunder. Reference herein to Poeschl or respondents refers to Poeschl and his firm collectively. The Charging Letter was duly served on respondents.

On October 3, 1962, prior to the issuance of the Charging Letter, in accordance with § 382.11 of the Export Control Regulations, an order was entered against respondents temporarily denying export privileges for 90 days (27 F.R. 9926). On December 28, 1962 this order was extended until the completion of administrative compliance proceedings (28 FR. 169).

The respondents failed to answer the charges and were held to be in default. In accordance with the practice, the case was referred to the Compliance Commissioner for default proceedings. An informal hearing was held at which evidence in support of the charges was presented. The Compliance Commissioner has reported the findings of fact, and conclusions that the evidence fully substantiates the charges. He recommended that the respondents be denied all United States export privileges so long as export controls are in effect.

After considering the entire record and the report and recommendations of the Compliance Commissioner, I hereby make the following findings of fact:

1. The respondent Otto Poeschl of Vienna, Austria, was the sole owner and manager of the firm Arga Warenhandelsgesellschaft and maintained a place of business in said Vienna. Reference herein to Poeschl refers to him and to the said firm collectively.

2. During the period from July 14, 1960 to March 31, 1961, Poeschl placed three orders for certain electronic instruments and equipment with the Austrian sales representative of a European subsidiary of a U.S. manufacturer of electronic equipment. Said orders to-

gether were for three oscilloscopes and 14 plug-in units having a total value of $7,560. The sales representative in turn ordered the instruments and equipment from the European subsidiary showing Poeschl as the customer. The commodities ordered were on the U.S. Positive List and were subject to import certificate/delivery verification procedure. When Poeschl placed the orders he knew that the commodities would be of U.S. origin.

3. Each time Poeschl placed an order with the Austrian sales representative he (Poeschl) obtained an Import Certificate from the Austrian Government by falsely representing that an individual in Vienna (the same one in each instance) would be the Austrian importer and that Austria would be the country of ultimate destination. The Import Certificate showed that the commodities were of U.S. origin. The said certificates were transmitted by Poeschl to the Austrian sales representative, which in turn forwarded them to the European subsidiary.

4. In each instance, after the said European subsidiary received the order and the Import Certificate from the Austrian sales representative, it sent Poeschl an order acknowledgment and an invoice which bore the following two destination control notices:

These Commodities Licensed by United States for Ultimate Destination Austria. Diversion Contrary to U.S. Law Prohibited.

United States law prohibits disposition of these commodities to the Soviet Bloc, Communist China, Cuba, North Korea, Macao, Hong Kong, or Communist Controlled Areas of Viet Nam and Laos, unless otherwise authorized by the United States.

5. Even though Poeschl represented that Austria would be the ultimate destination of the instruments and equipment, he knew when he placed the orders with the Austrian sales representative that Austria would not be the country of ultimate destination and at all times he intended to divert and transship the commodities to a Soviet bloc destination.

6. On arrival of the commodities in Austria, Poeschl, notwithstanding the destination control notices on the order acknowledgments and invoices, and contrary to his prior representations knowingly caused the instruments to be diverted and transshipped to a Soviet bloc destination.

7. On July 11 and 24, 1961, Poeschl attempted to purchase from the said Austrian sales representative electronic instruments and equipment of U.S. origin valued at about $13,000. In connection therewith, he submitted what purported to be an official Austrian Import Certificate. This document was a forgery and falsely identified an Austrian importer and Austria as the country of ultimate destination. Poeschl intended, upon arrival of the instruments and equipment in Austria, to reexport them to a Soviet bloc destination. U.S. authorities learned that the document was a forgery and of Poeschl's plans to reexport the commodities and so advised the Austrian sales representative and it canceled the order.

Based on these findings, I have reached the following *conclusions:*

The respondents by the foregoing conduct: (a) Knowingly caused the doing of acts prohibited by the Export Control Law and regulations issued thereunder; (b) ordered, bought, and sold commodities exported from the United States and subject to the U.S. Export Control Regulations with knowledge that violations of the Export Control Law and regulations had occurred and were intended to occur with respect to such transactions; (c) made and caused to be made false representations and certifications, and indirectly falsified to and concealed material facts from the Office of Export Control in connection with the preparation, issuance, and use of export control documents, and for the purpose of and in connection with effecting an exportation from the United States and the reexportation, transshipment, and diversion of such exportation; (d) without authorization from the Office of Export Control knowingly diverted, transshipped, and reexported commodities of U.S. origin to persons and destinations in violation of and contrary to the terms and conditions of export control documents and notification of prohibition against such actions, and contrary to the provisions of the Export Control Law and regulations thereunder. All of said actions being in violation of §§ 381.2, 381.4, 381.5, and 381.6 of the Export Control Regulations.

I have concluded that the recommendation of the Compliance Commissioner as to the sanction that should be imposed is fair and just and necessary to achieve effective enforcement of the law: *Accordingly, it is hereby ordered,*

I. The restrictions of the Temporary Denial Order which was entered against respondents on October 3, 1962 (27 F.R. 9926) and extended on December 28, 1962 (28 F.R. 169) are hereby continued in full force and effect.

II. So long as export controls are in effect the respondents and each of them hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction either in the United States or abroad shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successor and to any person, firm, corporation, or other business organization with which they now or hereafter may be related by affiliation, ownership, control position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. During the time when any respondent, related party, or other person within the scope of this order is prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with any respondent or other person denied export privileges within the scope of this order, or whereby any such respondent or such other person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or other person denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

Dated: June 12, 1963.

FORREST D. HOCKERSMITH,
Director,
Office of Export Control.

[F.R. Doc. 63-6341; Filed, June 17, 1963; 8:46 a.m.]

[Case 312]

ARROW ELECTRONICS, INC., ET AL.

Order Denying Export Privileges

In the matter of Arrow Electronics, Inc., 525 Jerico Turnpike, Mineola, New York; David Letter, 65 Cortland Street, New York 7, N.Y.; Karl Peters, a/k/a Karl Peterhassel, Elslergasse 17, Vienna 13, Austria; respondents, Case No. 312.

By letter dated November 6, 1962, the Export Control Investigations Division, Bureau of International Commerce[1]

[1] By Order No. 182 of the Department of Commerce, effective February 1, 1963, the functions of the Bureau of International Programs were transferred to the Bureau of International Commerce. The functions formerly performed by the Export Control Investigations Staff are now performed by the Export Control Investigations Division. The order provides that all outstanding rules, regulations, orders and other forms of administrative action shall remain in full force and effect until amended or revoked. Reference herein to any branch of the Department of Commerce under its present designation shall, where appropriate, apply to and include its predecessor.

(formerly Export Control Investigations Staff, Bureau of International Programs) charged the above named respondents with violations of the U.S. Export Control Act of 1949, as amended and regulations thereunder. A copy of the Charging Letter was served on each respondent. The respondents Arrow Electronics, Inc. (Arrow) and David Letter appeared by their respective attorneys, filed answers, and requested an oral hearing. The respondent Karl Peters submitted a letter in answer to the charges. A proposal for consent order was submitted by Letter and approved by the Acting Director, Investigations Division.

In accordance with the usual practice, the case was referred to the Compliance Commissioner and a hearing was held pursuant to Arrow's request. The Compliance Commissioner has considered the pleadings and evidence, and he has submitted to the undersigned his written report including findings of fact and findings that violations have occurred. He has recommended that Letter's consent proposal be accepted and has made recommendations as to the remedial action that should be taken against each respondent. He has also submitted the record in the case including the pleadings, exhibits, and transcript of the hearing. After considering the entire record in the case, I hereby make the following findings of fact:

1. The respondent Arrow Electronics, Inc. was a corporation engaged in the domestic sale and export of electronic components, parts and equipment. Its executive offices were in Mineola, Long Island, New York, and it maintained an export department and retail sales outlet in Manhattan. The respondent Karl Peters, also known as Karl Peterhassel, since 1955 had been an employee of Arrow in charge of the operations of the export department. The respondent David Letter become an employee of Arrow on October 19, 1959 as assistant to Peters.

2. Between September 4, 1959 and April 29, 1960 Arrow and Peters exported from the United States to a consignee in West Germany 23 separate shipments, consisting of transistors, tubes and diodes. The value of the separate shipments ranged from $75 to $1,896, and in total amounted to $10,521.

3. All of the transistors, tubes and diodes were at the time of exportation on the BIC Positive List of Commodities and required a validated license from the BIC for export to West Germany, except that commodities in a single shipment classified in a single entry on the Positive List and valued at $50 or less could be exported to West Germany under General License GLV. Each of the 23 shipments included commodities under a single entry on the Positive List valued in excess of $50 and neither Arrow nor Peters obtained in any case a validated license from BIC authorizing said exportation. Shipper's export declarations were required with each exportation but were not submitted with 19 of the exportations.

4. None of the invoices, which were sent to the consignee in West Germany, covering the aforesaid shipments, contained thereon a destination control notice as required by the Export Control Regulations.

5. Commodities valued at $1,155 were exported on September 4, 1959. Said exportation required a validated export license from BIC and this was known to Peters. Notwithstanding such knowledge, Peters falsely declared on the shipper's export declaration that said commodities were eligible for export under General License GRO.

6. Commodities valued at $75 were exported on October 30, 1959. In connection with this exportation, the respondent Letter, on instructions from Peters, prepared a false invoice showing the value of commodities as $37.50. This invoice was used in good faith by Arrow's freight forwarder in preparing a shipper's export declaration for exportation under General License GLV. The invoice for $37.50 was never sent to the consignee, but a second invoice for $75 was sent to him.

7. In each of the years 1959 and 1960, the gross sales of Arrow's Export Department exceeded $500,000. Peters had prime responsibility for the operations of the export department, and he did not have adequate assistance, facilities or quarters for carrying on a business of this type with volume to this extent.

8. Peters had actual knowledge of the requirements of the Export Control Regulations regarding shipment of Positive List commodities under General License GLV. He also knew that a shipper's export declaration was required with each of the aforesaid exportations, and he further knew that appropriate destination control notices were required on the invoices which were submitted to the purchaser in West Germany. He failed to submit shipper's export declarations with 19 of the exportations and failed to include destination control notices on any of the invoices.

9. The respondents Peters and Letter were acting within the scope of their employment, in the foregoing transactions, and the respondent, Arrow, a corporation, is responsible for the conduct of its employees for violations of the Export Control Act and regulations thereunder.

Based on the foregoing findings of fact, I have concluded that the respondents Arrow and Peters: (a) Knowingly exported Positive List commodities from the U.S. without licenses authorizing the exportations; (b) used general license symbols "GRO" and "GLV" on shipper's export declarations, knowing, with respect thereto that the exportations to be affected thereunder did not meet the terms, provisions, and conditions of said general license; (c) exported commodities by airmail and air parcel post without having presented to the Postmaster at the place of mailing duly executed shipper's export declarations covering the commodities so mailed; (d) failed to include on commercial invoices the required destination control notices; (e) sold, transported, and forwarded commodities exported from the U.S. with knowledge that violations of the Export Control Law and regulations thereunder were about to and intended to occur; (f) made false and misleading representations to, and concealed material facts from, BIC and the Collector of Customs: all in contravention of §§ 370.2, 371.2, 371.8, 371.10, 372.3, 379.1(b), 379.10 (c) 381.2, 381.4, 381.5, 381.6, and 399.1 of the Export Control Regulations.

Based on the admissions by Letter (for the purpose of these compliance proceedings) I have concluded that he made false and misleading representations to, and concealed material facts from BIC and the Collector of Customs in violation of §§ 381.2 and 381.5 of the Export Control Regulations.

The Compliance Commissioner ruled that the corporate respondent, Arrow, was responsible for the conduct of its employees even though the principal officers of the corporation did not have actual knowledge that its employees were acting in contravention of the law. He quoted from U.S. v. George F. Fish, Inc., 154 F. 2d 798 as follows:

> The Supreme Court has long ago determined that the corporation may be held criminally liable for the acts of an agent within the scope of his employment (citing N.Y. Central v. U.S., 212 U.S. 481) and the state and lower federal courts have been consistent in their application of that doctrine (authorities cited).
>
> No distinctions are made in these cases between officers and agents, or between persons holding high positions involving varying degrees of responsibility. . . . The purpose of the Act is a deterrent one; and to deny the possibility of corporate responsibility for the acts of minor employees is to immunize the offender who really benefits, and opens wide the door for evasion.

He also quoted from U.S. v. Matlack, 149 F. Supp. 814 where it was said:

> While the primary responsibility for conducting the operations of the corporation lay with its principal officers, it was their duty in delegating authority to lesser agents to take effective measures to supervise and assure performance of the affirmative duty imposed upon the corporation. Thus, the corporation cannot avoid responsibility by merely saying that a subordinate agent neglected his duty.

As to the sanctions that should be imposed, the Compliance Commissioner said in part:

> The respondent Letter has consented to be placed on probation for a year on condition that during this said year he does not knowingly violate the Export Control Act or any regulation issued thereunder. Letter was involved only in one transaction, which occurred after he had been working for Arrow but 11 days. He had had no previous experience in handling documents for validated licenses. He prepared a false invoice on instructions from his superior, Peters. Considering these circumstances, I am of the view that the proposed consent order is fair and just and designed to achieve effective enforcement of the Export Control Law and regulations, and I recommend that it be accepted.
>
> As to the respondent Peters, he knowingly and willfully violated the provisions of the Export Control Regulations, and there must be effective denial of export privileges for a definite period. In reaching a recommendation as to how long this period should be, I have considered a number of factors.
>
> While Peters' participation in the transactions was willful, he did not act maliciously to injure the security or welfare of the United States, or for ideological reasons

to further the interests of the Sino-Soviet bloc. He was under great work pressure and he chose this method of handling these transactions to save himself the time and effort of going through the proper procedures of obtaining validated licenses. He was over-zealous in furthering the interests of his employer at the expense of contravening the law. This may, in part, explain his conduct but it certainly does not excuse it. The entire licensing program was worked out with great care and to achieve certain specific purposes and it is not the choice of the individual to decide for himself when it is convenient for him to follow the regulations.

Peters worked on a straight salary and not on commission. He received no financial or monetary gain from these transactions * * *

While Peters' conduct was of his own doing, it appears that he suffered considerable mental distress after his violations were discovered and he is regretful of his conduct * * *

The commodities which were exported were on the Positive List. However, there is nothing to indicate that any of them were reexported to a Sino-Soviet bloc destination or that Peters intended that they should be.

Taking all of these factors into consideration, I recommend that Peters be denied all export privileges for a period of four months and that thereafter he be placed on probation for the balance of three years.

I now come to recommending the sanction that should be imposed against Arrow. The Corporation and its officers are of high reputation. None of the officers had actual knowledge that Peters was acting in violation of the regulations. However, it was the duty of the principal officers of the corporation, in delegating authority to lesser agents to take effective measures to supervise them and assure performance in compliance with the law. Such measures were not taken. Peters was permitted to carry on a business of over half a million dollars without sufficient supervision and without adequate assistance or facilities. To this extent the corporation is culpable.

There should be effective denial of the corporation's export privileges for a relatively short period and thereafter it should be placed on probation. The effective denial should be of such duration as to achieve the remedial purpose of sanctions in cases of this type, and should also serve as a deterrent to future violations. In this case, it should not be of such duration as to require the corporation to retire from the export business or work irreparable damage to it.

The events which followed the violations in question have disrupted the export operations of the company from which it has not yet recovered. It has suffered considerable financial loss. Considering all of the circumstances, and having in mind the competitive nature of the company's business and the fact that many overseas purchasers are regular customers, I am of the view that denial of export privileges for three weeks, to take effect one week after the order is issued, and probation thereafter for the balance of one year, will achieve the purpose of the law and will not result in irreparable damage to the export department of the corporation, and I recommend such sanction.

I have considered the entire record and the recommendations of the Compliance Commissioner concerning the sanctions that should be imposed and have concluded that the recommendations are fair and just and designed to achieve effective enforcement of the law: *Accordingly, it is hereby ordered,*

I. All outstanding licenses in which the respondent Karl Peters appears or participates as purchaser, intermediate or ultimate consignee, or otherwise are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation. No exportation shall be made by Arrow Electronics, Inc. or by any person, firm, or other business organization on its behalf, under any export licenses in which Arrow appears as a party, during the period of effective denial of export privileges as set forth in Parts II and IV hereof.

II. Except as qualified in Part IV hereof, the respondent Letter, for a period of one year from the date of this order, the respondent Peters, for a period of three years from the date of this order, and the respondent Arrow, for a period of one year commencing one week after the date of this order, are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction either in the United States or abroad shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successor and to any person, firm, corporation, or other business organization with which they now or hereafter may be related by affiliation, ownership, control position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. (A) As to the respondent Letter, the provisions of Part II hereof shall be held in abeyance for the entire one year period and said respondent shall be on probation under the conditions set forth in (D) of this Part. (B) As to the respondent Peters, the privileges denied under Part II hereof shall be restored conditionally four months after the date hereof and thereafter said respondent shall be on probation for the remainder of the denial period. (C) As to the respondent Arrow, the privileges denied under Part II hereof shall be restored conditionally four weeks after the date hereof and thereafter said respondent shall be on probation for the remainder of the denial period. (D) The conditions referred to in (A), (B) and (C) of this Part are that the respondents shall fully comply with all requirements of the Export Control Act of 1949, as amended, and all regulations, licenses and orders issued thereunder.

V. Upon a finding by the Director, Office of Export Control, or such other official as may be exercising the duties now exercised by him, that any respondent has knowingly failed to comply with the requirements and conditions of this order or with the conditions of probation, said official at any time, with or without prior notice to said respondent, by supplemental order, may revoke the probation of said person and deny all export privileges, for a period up to one year as to Letter or Arrow, and for a period up to three years as to Peters. Such order shall not preclude the Bureau of International Commerce from taking further action for any violation as shall be warranted. Any person affected by a supplemental order revoking without notice his probation, may file objections and request that such order be set aside, and may request an oral hearing, as provided in § 382.16 of the Export Control Regulations, but pending such further proceedings, the order of revocation shall remain in effect.

VI. During the time when any respondent or other person within the scope of this order is prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with any respondent or other person denied export privileges within the scope of this order, or whereby any such respondent or such other person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or other person denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

Dated: June 12, 1963.

FORREST D. HOCKERSMITH,
Director,
Office of Export Control.

[F.R. Doc. 63-6342; Filed, June 17, 1963; 8:46 a.m.]

Office of the Secretary

DELEGATION OF AUTHORITY TO CHAIRMAN OF CIVIL AERONAUTICS BOARD; AND U.S. SCIENCE EXHIBIT—CENTURY 21 EXPOSITION

Revocation of Department Orders

The following orders were revoked by the Secretary of Commerce on June 5, 1963:

Department Order No. 139 (Revised) "Delegation of Authority to the Chairman of the Civil Aeronautics Board." The revocation of this order rescinds the material appearing at 22 F.R. 4257 of June 15, 1957; and

Department Order No. 167 "U.S. Science Exhibit—Century 21 Exposition." The revocation of this order rescinds the material appearing at 25 F.R. 1084 of February 6, 1960.

Dated: June 11, 1963.

HERBERT W. KLOTZ,
Assistant Secretary for Administration.

[F.R. Doc. 63-6368; Filed, June 17, 1963; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 14559; Order E-19666]

FLYING TIGER LINE, INC.

Proposed Cargo Charter Rates From Hawaiian Points to San Francisco; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of June 1963.

The Flying Tiger Line, Inc. (Tiger) has filed a tariff marked to become effective June 15, 1963, proposing cargo charter rates from Hilo and Honolulu, on the one hand, to San Francisco, on the other, of $3,200 for L-1049H aircraft and $4,800 for CL-44D aircraft. Tiger has in effect a tariff naming the same rates for these aircraft applicable to Los Angeles only.

In support of its filing, Tiger relies chiefly on a comparison with rates on fresh fruits and vegetables recently put into effect from Honolulu to various U.S. West Coast points by Pan American World Airways, Inc. (Pan American).[1] These rates, which apply to minimum shipments of 1,100 pounds, are essentially equivalent to Tiger's proposals for plane-load lots. Tiger asserts that its proposals are in fact higher per pound than Pan American's effective rates because of the economies inherent in Tiger's plane-load proposals as compared with Pan American's smaller minimum shipments.

Upon consideration of Tiger's proposed tariff and all relevant matters, the Board finds that the trip cargo charter rates of Tiger may be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and should be investigated. The proposed rates are approximately $1.35 per mile to San Francisco for L-1049H aircraft and $2.00 per mile for CL-44D aircraft. Tiger's current general charter tariff for continental United States-Hawaii cargo charters provides for a rate of $2.75 per live mile and $2.00 per ferry mile for L-1049H aircraft and $4.25 per live mile and $3.50 per ferry mile for CL-44D aircraft.

The proposed charter rates result in per-mile rates that are less than 50 percent of the carrier's general cargo charter rates between continental United States and Hawaii. In addition, the proposed rates on a per-mile basis are below the carrier's reported direct aircraft operating expenses. They do not appear to be justified on an economic basis.

This filing is a marked departure from the prevailing level of cargo charter rates from Hawaii to the continental United States for the aircraft involved. Consistent with our actions with respect to identical filings by Slick Airways, Inc. and World Airways, Inc., in 1962,[2] the Board has concluded to suspend the proposals and defer their use pending investigation. In order to permit Tiger to compete with Pan American's effective rates on fruits and vegetables, we shall consider favorably an application from Tiger to put into effect on short notice rates on the foregoing commodities from Honolulu to San Francisco.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 404, and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the charter charges and provisions appearing on 7th Revised Page 4-B of The Flying Tiger Line Inc. Tariff C.A.B. No. 32 applying from Hilo, Hawaii or Honolulu, Hawaii to San Francisco, California of $3,200.00 per trip for L-1049H (All-Cargo) aircraft and $4,800.00 per trip for CL-44D (All-Cargo) aircraft are, or will be, unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful and if found to be unlawful to determine and prescribe the lawful rates, charges and provisions.

2. Pending investigation, hearing and decision by the Board, the charter charges and provisions appearing on 7th Revised Page 4-B of The Flying Tiger Line Inc. Tariff C.A.B. No. 32 applying from Hilo, Hawaii or Honolulu, Hawaii to San Francisco, California of $3,200.00 per trip for L-1049H (All-Cargo) aircraft and $4,800.00 per trip for CL-44D (All-Cargo) aircraft are suspended and their use deferred to and including September 12, 1963, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

4. Copies of this order be filed with the tariff and be served upon The Flying Tiger Line Inc. which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 63-6394; Filed June 17, 1963; 8:59 a.m.]

[Docket No. 14403]

HOLIDAY EXCURSION FARES

Notice of Reassignment of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is hereby reassigned to be held on June 25, 1963, at 10 a.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., June 12, 1963.

[SEAL] WALTER W. BRYAN,
Hearing Examiner.

[F.R. Doc. 63-6395; Filed, June 17, 1963; 8:59 a.m.]

[Docket No. 14011 etc.; Order E-19669]

NATIONAL AIRLINES, INC., AND NEW BERN AND JACKSONVILLE-CAMP LEJEUNE SERVICE CASE

Order Finalizing Tentative Findings and Conclusions and Reconstituting Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of June 1963.

Application of National Airlines, Inc., for amendment of its certificate of public convenience and necessity for Route 31 so as to delete therefrom the intermediate points Fayetteville, New Bern, and Wilmington, N.C., Docket 14011; New Bern and Jacksonville-Camp Lejeune service case, Docket 14560 etc.

In show cause Order E-19373, dated March 13, 1963, the Board tentatively found and concluded that (1) the public convenience and necessity require amendment of the certificate of National Airlines, Inc. (National) for route 31 so as to delete the intermediate points Fayetteville, New Bern, and Wilmington, North Carolina, therefrom; and (2) there is a public need for north-south service at New Bern, which can best be met by certificating New Bern as an intermediate point on segment 8 of the certificate of Piedmont Aviation, Inc. (Piedmont) for route 87 and hyphenating Jacksonville-Camp Lejeune, an existing intermediate point, with New Bern for service to both points through a single airport. The order afforded the opportunity for the filing of comments or objections, and provided that all further

[1] Agent R. C. Lounsbury's Tariff C.A.B. No. 118, effective May 15, 1963. No protests were filed against these filings, which became effective without any order by the Board.

[2] Order E-18138, adopted March 22, 1962, and Order E-18999, adopted November 13, 1962.

procedural steps would be deemed waived and the matter submitted for final Board action on any issues with respect to which no such filings were made.

The period allowed for the filing of comments and objections has passed, and no objections have been filed to the Board's tentative findings and conclusions concerning the proposed deletion of Fayetteville, New Bern, and Wilmington from National's certificate.[1] However, the city of Jacksonville and the Greater Jacksonville Chamber of Commerce have filed objections to that portion of Order E–19373 which tentatively proposed hyphenation of Jacksonville-Camp Lejeune with New Bern for service through a single airport.

By motion, Piedmont has requested that the Board issue a final order which would amend National's certificate as proposed, authorize Piedmont to serve New Bern as an intermediate point on segment 8, and set down for hearing the question of whether Jacksonville-Camp Lejeune should continue as a separate intermediate point on Piedmont's segment 8. The Bureau of Economic Regulation (Bureau) does not oppose Piedmont's motion insofar as it relates to the deletion of the North Carolina cities as intermediate points on National's route 31, but it does object to any designation of New Bern as a separate intermediate point on segment 8 of Piedmont's route without concurrent consideration of the hyphenation issue involving New Bern and Jacksonville-Camp Lejeune.

In the absence of objection, we will make final those findings and conclusions contained in Order E–19373 which pertain to termination of National's service to Fayetteville, New Bern, and Wilmington. An appropriate amended certificate for National's route 31 is being issued with this order. No further procedures are necessary with respect to Docket 14011, since the effect of our action is to grant National's application.

We have decided that the remaining issues should be set down for hearing. As pointed out by the Bureau, the focus of Order E–19373 was not upon the unqualified addition of New Bern as a separate intermediate point on Piedmont's segment 8 without regard to continued separate service to Jacksonville-Camp Lejeune, but upon the question of whether Piedmont should be authorized to serve the hyphenated point New Bern-Jacksonville-Camp Lejeune through a single airport. Under these circumstances, it would be inappropriate to add New Bern to Piedmont's route without having explored the hyphenation issue. In the further proceedings we are ordering, the parties will be free to direct themselves to the alternatives of separate or hyphenated service authorizations.

Accordingly, it is ordered:

1. That National's application in Docket 14011 be and it hereby is granted;

2. That a proceeding entitled the New Bern and Jacksonville-Camp Lejeune Service Case be and it hereby is instituted to consider whether the public convenience and necessity require the amendment of the certificate of Piedmont Aviation, Inc. for segment 8 of route 87 to (1) add New Bern as an intermediate point; (2) delete Jacksonville-Camp Lejeune as a separate intermediate point; and (3) as tentatively found and concluded in Order E–19373, hyphenate the points New Bern and Jacksonville-Camp Lejeune and authorize service to New Bern-Jacksonville-Camp Lejeune through a single airport;

3. That the proceeding instituted by ordering paragraph 2 hereof be assigned Docket 14560 and set down for hearing before an examiner of the Board at a time and place to be determined;

4. That Dockets 14020 and 14026 be and they hereby are consolidated with the proceeding in Docket 14560 for contemporaneous consideration and disposition;

5. That the city and Chamber of Commerce of Jacksonville, the city and Chamber of Commerce of New Bern, and Piedmont Aviation, Inc. be and they hereby are made parties to the proceeding in Docket 14560;

6. That an amended certificate of public convenience and necessity in the form attached hereto[2] be issued to National Airlines, Inc. for route 31; and

7. That National's amended certificate shall be signed on behalf of the Board by its Secretary, shall have affixed thereto the seal of the Board, and shall be effective on June 12, 1963.

8. That this order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 63–6396; Filed, June 17, 1963; 9:00 a.m.]

[Docket No. 14517; Order E–19677]

WORLD AIRWAYS, INC.

Proposed Cargo Charter Rates From Okinawa to California Points; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of June 1963.

World Airways, Incorporated (World) has filed a tariff to become effective June 16, 1963, proposing a cargo charter rate for L–1049 aircraft of $7,200.00 per trip from Okinawa to Los Angeles or Oakland, California.

Northwest Airlines, Inc. (Northwest) and Pan American World Airways, Inc. (Pan American) have filed complaints requesting investigation and suspension, but these were untimely and will be dismissed to the extent that they request suspension. Section 302.505 of the Board's rules of practice in Economic Proceedings states that a complaint requesting suspension of any tariff filed under the Act ordinarily will not be considered unless filed at least 18 days before the effective date. In this instance, complaints were due not later than May 27, 1963, but were not received until May 31, 1963.

In answer to the complaints, World states that Northwest and Pan American have failed to comply with the Board's rules of practice in that (1) as required by § 302.502, the complainants fail to present any full and factual analysis of why the proposed rate is unlawful; (2) as required by § 302.505(a) the complainants fail to state what rate is suggested by way of substitution for the proposed rate; and (3) as required by § 302.505(b) the complaints were not timely filed. In addition, World states that Pan American does not serve Okinawa and hence has no legitimate interest in the matter and the recent suspension by the Board of a cargo charter rate from Okinawa to California proposed by The Flying Tiger Line, Inc. (Tiger) is not relevant as World is entirely dependent upon charter revenues whereas Tiger is not; and the Board's policy contemplates an increase in World's civilian business.

According to the Federal Aviation Act of 1958, the Board's authority to suspend rate proposals is not limited to those against which complaints (submitted in accordance with our rules) are filed. Section 1002(g) of the Act specifically empowers the Board to investigate rate proposals "upon complaint or upon its own initiative," and to suspend the operation of such proposals pending investigation. Upon consideration of all relevant matters, the Board finds that the tariff proposal may be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and should be investigated. The rate proposed would yield approximately $1.07 per aircraft mile (varying with the route flown), or approximately 5.4 cents per ton-mile, with 40,000-pound load. These returns are significantly below World's direct operating costs for the aircraft involved and form a substantial departure from the existing pattern of charter rates for such aircraft in this area. World has now on file general cargo charter rates in the Transpacific service of $3.00 per charter mile and $2.50 per ferry mile. While the Board has awarded World unlimited overseas cargo charter authority, there is nothing in that authority regarding the level of rates to be charged. Nor can such authority be properly interpreted as an intent by the Board to permit the carrier to charge uneconomic rates in such operations.

Consistent with our previous actions with respect to filings involving low directional rates on the return legs of MATS one-way charters,[1] the Board has further concluded to suspend the proposal and defer its use pending investigation. In view of the similarity of the issues involved in this proposal to those of the prior Tiger filing, we shall consolidate the investigation ordered herein

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[1] National filed a response in which it supported the Board's proposed action.

[2] Certificate filed as part of original document.

[1] Order E–18138 of March 22, 1962, and Order E–18999 of November 13, 1962, ordering investigation in Docket 13487, Hawaii-Mainland Directional Charter Case; Order E–19604 of May 23, 1963, Docket 14517, Cargo Charter Rate Proposed by The Flying Tiger Line Inc.

into Docket 14517, Cargo Charter Rate Proposed by The Flying Tiger Line Inc.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof: *It is ordered*, That:

1. An investigation is hereby instituted to determine whether the charter rate of $7,200 from Okinawa Island to Los Angeles, California, or Oakland, California, appearing in World Airways, Incorporated C.A.B. No. 11 is, or will be, unjust, or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful rate;

2. Pending investigation, hearing, and decision by the Board, World Airways, Incorporated C.A.B. No. 11 is suspended and its use deferred to and including September 13, 1963, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This investigation is consolidated with the proceeding entitled Cargo Charter Rate Proposed by The Flying Tiger Line Inc., Docket 14517;

4. The complaints of Northwest Airlines, Inc., in Docket 14535 and Pan American World Airways, Inc., in Docket 14532 are dismissed to the extent not granted herein;

5. Copies of this order shall be filed with the aforesaid tariff and shall be served upon The Flying Tiger Line Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., and World Airways, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 63-6397; Filed, June 17, 1963; 9:00 a.m.]

[Docket No. 13777; Order E-19673]

AGREEMENT OF TRAFFIC CONFERENCES OF INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of June 1963.

Agreements adopted by the Traffic Conferences of the International Air Transport Association relating to specific commodity rates; Docket 13777, Agreement C.A.B. 16947, R-20 through R-23; Agreement C.A.B. 17004, R-6; Agreement C.A.B. 17006, R-4.

There have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, agreements between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 and Joint Conferences 1-2 and 3-1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 (Commodity Rates Board).

The agreements, adopted pursuant to unprotested notices to the carriers and promulgated in IATA memoranda, name additional specific commodity rates as set forth in the attachment hereto.[1]

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreements to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered: *Accordingly, It is ordered,*

That Agreement C.A.B. 16947, R-20 through R-23, Agreement C.A.B. 17004, R-6, and Agreement C.A.B. 17006, R-4, are approved, provided that such approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 63-6398; Filed, June 17, 1963; 9:00 a.m.]

[1] Attachment filed as part of original document.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15100]

ELECTRO-MECH. ENGR. SPEC. CO.

Order To Show Cause

In the matter of Electro-Mech. Engr. Spec. Co., Huntington Beach, California, Docket No. 15100; order to show cause why there should not be revoked the license for Radio Station KEJ-1382 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee at his address of record as follows: Official Notice of Violation dated February 19, 1963, alleging violation of § 19.33 of the Commission's rules;

It further appearing, that said licensee did not reply to such communication or to a follow-up letter dated March 14, 1963, also mailed to the licensee at his address of record; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules:

It is ordered, This 10th day of June 1963, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and § 0.291(b) (8) of Part 0 of the Commission's rules, that the said licensee show cause why the license for the above-captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order:

And it is further ordered, That the Acting Secretary send a copy of this order by Certified Mail, Return Receipt Requested, to the said licensee at his last known address of Post Office Box 686, Huntington Beach, California.

Released: June 12, 1963.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6389; Filed, June 17, 1963; 8:58 a.m.]

[Docket No. 15101]

DONALD B. MORSE

Order To Show Cause

In the matter of Donald B. Morse, Anaheim, California, Docket No. 15101; order to show cause why there should not be revoked the license for Radio Station 11W6140 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee at his address of record as follows: Official Notice of Violation dated March 14, 1963, alleging violation of § 19.33 of the Commission's rules;

It further appearing, that said licensee did not reply to such communication or to a follow-up letter dated April 1, 1963, also mailed to the licensee at his address of record; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules:

It is ordered, This 10th day of June 1963, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and § 0.291(b) (8) of Part 0 of the Commission's rules, that the said licensee show cause why the license for the above-captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order:

And it is further ordered, That the Acting Secretary send a copy of this order by Certified Mail, Return Receipt Requested, to the said licensee at his last known address of 8201 Siesta Street, Anaheim, California.

Released: June 12, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6390; Filed, June 17, 1963; 8:58 a.m.]

[Docket No. 15098]

BILLY R. SHERRILL

Order To Show Cause

In the matter of Billy R. Sherill, Conway, Arkansas, Docket No. 15098; order to show cause why there should not be revoked the license for Radio Station 8W2022 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee at his address of record as follows: Letter dated February 11, 1963, alleging violation of §§ 19.17 and 19.92 of the Commission's rules, and section 310(b) of the Communications Act of 1934, as amended.

It further appearing, that said licensee did not reply to such communication or to a follow-up letter dated March 19, 1963, also mailed to the licensee at his address of record; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules:

It is ordered, This 10th day of June 1963, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and § 0.291(b)(8) of Part 0 of the Commission's rules, that the said licensee show cause why the license for the above-captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order:

And it is further ordered, That the Acting Secretary send a copy of this order by Certified Mail, Return Receipt Requested, to the said licensee at his last known address of 220 Conark Courts, Conway, Arkansas.

Released: June 12, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6391; Filed, June 17, 1963; 8:58 a.m.]

[Docket Nos. 14857—14862; FCC 63M-658]

WELLERSBURG TV, INC., AND PEOPLE'S COMMUNITY TELEVISION ASSOCIATION, INC.

Order Scheduling Prehearing Conference

In re applications of Wellersburg TV, Inc., Wellersburg, Pennsylvania, Docket No. 14857, File No. BPTTV-1174; Wellersburg TV, Inc., Wellersburg, Pennsylvania, Docket No. 14858, File No. BPTTV-1175; Wellersburg TV, Inc., Wellersburg, Pennsylvania, Docket No. 14859, File No. BPTTV-1176; People's Community Television Association, Inc., LaVale, Maryland, Docket No. 14860, File No. BPTTV-1177; People's Community Television Association, Inc., LaVale, Maryland, Docket No. 14861, File No. BPTTV-1178; People's Community Television Association, Inc., LaVale, Maryland, Docket No. 14862, File No. BPTTV-1179; for construction permits for VHF Translator Stations.

On the Examiner's own motion: *It is ordered,* This 7th day of June 1963, that a further prehearing conference in the above-entitled proceeding, be, and the same is, hereby scheduled for June 21, 1963, in the Offices of the Commission in Washington, D.C.

The parties are hereby put on notice that one of the main purposes of the above conference is the scheduling of a date in the near future for a hearing in this matter.

Released: June 7, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 63-6392; Filed, June 17, 1963; 8:58 a.m.]

[FCC 63-544]

RATINGS

Broadcast Licensees Cautioned About Improper Use

JUNE 13, 1963.

As a part of its continuing liaison with the Federal Trade Commission, this Commission has determined that notice should be given to its broadcast licensees concerning possible improper use of broadcast ratings in advertising campaigns.

Information has come to the attention of the Commission, as a result of hearings recently held by the Special Subcommittee on Investigations of the House Committee on Interstate and Foreign Commerce and through complaints, that some licensees have made improper use of broadcast ratings. The Commission recognizes, of course, that audience research is an important selling tool in efforts to obtain advertiser support. It is not the intention of the Commission to discourage valid audience research or its proper use by broadcast licensees in their selling campaigns.

In using audience research, however, the licensee must act responsibly. He therefore has an obligation to take reasonable precautions to insure that a survey which he uses in an advertising campaign is valid (e.g., that it is properly conceived, reasonably free from bias, has an adequate sample). He also has an obligation to act responsibly in the use he makes of the survey. He may not, for example, quote a portion of the survey out of context so as to leave a false and misleading impression of the relative ranking of his station in the market.

As is made clear in the public notice issued this day by the Federal Trade Commission, failure to act responsibly may constitute an unfair method of competition, or an unfair or deceptive act or practice in violation of the Federal Trade Commission Act. The Commission intends ordinarily to refer complaints dealing with questionable use of broadcast ratings to the Federal Trade Commission for that agency's consideration.

In determining whether a licensee is operating in the public interest, the Commission will take into account any findings or order to cease and desist of the Federal Trade Commission concerning the use of broadcast ratings by a licensee.

Adopted: June 12, 1963.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 63-6393; Filed, June 17, 1963; 8:59 a.m.]

FEDERAL MARITIME COMMISSION

[No. 1005]

ASSOCIATED STEAMSHIP LINES; MANILA

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Associated Steamship Lines (Manila) and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is furthered ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

ASSOCIATED STEAMSHIP LINES (5600)

Member Lines

American Mail Line, Ltd., 1010 Washington Building, Seattle 1, Wash.
American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Bank Line, Ltd. (the) (American & Oriental Line), Boyd, Weir & Sewell, Inc., 24 State Street, New York 4, N.Y.
Barber-Wilhelmsen Line, Barber Steamship Lines, Inc., 17 Battery Place, New York 4, N.Y.
Ben Line Steamers, Ltd. (The) (Ben Line), 10 North Saint David Street, Edinburgh 2, Scotland.
Blue Funnel Line, Funch, Edye & Co., Inc., General Agents, 25 Broadway, New York 4, N.Y.
Burma Five Star Line, Ltd., 34 Strand Road, Rangoon, Burma.
China Navigation Co., Ltd., Hanson, Orth & Stevenson, Inc., Agents, Manila, Philippines.
Compagnie des Messageries Maritimes, 12 Boulevarde la Madeleine, Paris, France.
Compagnie Maritime des Chargeurs Reunis, Black Diamond Steamship Co., Agents, 2 Broadway, New York 4, N.Y.
Crusader Shipping Co., Ltd., Furness, Withy & Co., Ltd., General Agents, 34 Whitehall Street, New York 4, N.Y.
Compania Maritima, Garcia & Diaz, Inc., General Agents, 25 Broadway, New York 4, N.Y.
Daido Kaiun Kaisha, Ltd., General Steamship Corp., Ltd., 432 California Street, San Francisco 4, Calif.
De La Rama Line, Funch, Edye & Co., General Agents, 25 Broadway, New York 4, N.Y.
East Asiatic Co., Ltd. (The), The East Asiatic Co., Inc., General Agents, 465 California Street, San Francisco 4, Calif.
Eastern & Australian Steamship Co., Ltd., Smith, Bell & Co., Ltd., General Agents, Manila, Philippines
Eastern Shipping Line, Inc., Dodwell & Co., Ltd., Agents, Manila, Philippines
Ellerman & Bucknall Associated Lines, Norton, Lilly & Co., Inc., 25 Beaver Street, New York 4, N.Y.
Everett Orient Line, 223 Dasmarinas Street, Manila, Philippines
Fern-Ville Lines/Barber-Fern Ville Lines, Fearnley & Eger and A. F. Klaveness & Co., A/S, 17 Battery Place, New York 4, N.Y.
Glen Line, Ltd., 16 St. Helen's Place, London E.C. 3, England
Gold Star Line, Ltd., Bradman Co., Inc., Agents, Manila, Philippines
Hamburg-Amerika Linie, U.S. Navigation Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Høegh Lines, 51 Broad Street, New York, N.Y. (Kerr Steamship Co., Inc., Agents)
Holland East Asia Line, Java Pacific Line, Inc., 25 Broadway, New York 4, N.Y.
Iino Kaiun Kaisha, Ltd., Kerr Steamship Co., Inc., General Agents, 51 Broad Street, New York 4, N.Y.
Indo-China Steam Navigation Co., Ltd., Macleod & Co., of Philippines, Agents, Post Office Box 298, Manila, Philippines
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Java Pacific & Høegh Lines, Java Pacific Line, Inc., General Agents, 25 Broadway, New York 4, N.Y.
Java Pacific & Hoegh Lines, Java Pacific Line, Inc., General Agents, 25 Broadway, New York 4, N.Y.
Kansai Kisen Kaisha, America SS Agencies, Inc., Agents, Manila, Philippines
Kawasaki Kisen Kaisha, Ltd., Kerr Steamship Co., Agent, 51 Broad Street, New York 4, N.Y.
Klaveness Line, Barber Lines, Inc., 17 Battery Place, New York, N.Y.
Knutsen Line—Joint Service, Boyd, Weir & Sewell, Inc., 24 State Street, New York 4, N.Y.
Koninklijke Java-China-Paketvaart Lijnen N.V., Java Pacific Line, Inc., General Agents, 25 Broadway, New York 4, N.Y.
Koninklijke Rotterdamsche Lloyd, N.V., Veerhaven 7, Rotterdam, Netherlands
Lykes Bros. Steamship Co., Inc. (Lykes Orient Line), 821 Gravier Street, New Orleans, La.
Marchessini Lines, 26 Broadway, New York 4, N.Y.
Maritime Co. of the Philippines, Inc., North American Maritime Agencies, 214 Front Street, San Francisco, Calif.
Mitsubishi Kaiun Kaisha, Ltd., Oceanic Agencies, 2 Broadway, New York 4, N.Y.
Mitsui Steamship Company, Ltd., Mitsui Line Agencies, Inc., General Agents, 17 Battery Place, New York 4, N.Y.
A. P. Moller-Maersk Line, Maersk Line, 67 Broad Street, New York 4, N.Y.
Nippon Yusen Kaisha, 25 Broadway, New York 4, N.Y.
North German Lloyd, U.S. Navigation Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
N.V. Stoomvaart Maatschappij "Nederland" Java Pacific Line, Inc., General Agents, 25 Broadway, New York 4, N.Y.
P & O Orient Lines, P & O Orient Lines Inc., General Agents, 230 California Street, San Francisco 11, Calif.
Orient Mid-East, Great Lakes Service, 29 Broadway, New York 6, N.Y.
Osaka Shosen Kaisha, Ltd., 17 Battery Place, New York 4, N.Y.
Pacific Far East Line, Inc., 141 Battery Street, San Francisco, Calif.
Prince Line, Furness, Withy & Co., Ltd., 34 Whitehall Street, New York 4, N.Y.
Rederiaktiebolaget Helsingborg (Australia-West Pacific Line), Dodwell & Co., Ltd., General Agents, Manila, Philippines
Shinnihon Steamship Co., Ltd., Texas Transport & Terminal Co., Inc., 52 Broadway, New York 4, N.Y.
States Marine Lines, 90 Broad Street, New York 4, N.Y.
States Steamship Co., 320 California Street, San Francisco, Calif.
Swedish East Asia Co., Ltd., Funch, Edye & Co., General Agents, 25 Broadway, New York 4, N.Y.
Transocean Transport Corp. (Magsaysay Lines), Amerind Shipping Corp., General Agents, 17 Battery Place, New York 4, N.Y.
United Philippine Lines, Inc., Stockard Shipping Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
U.S. Lines Co. (American Pioneer Line), U.S. Lines, 1 Broadway, New York 4, N.Y.
Waterman Steamship Corp., 19 Rector Street, New York 6, N.Y.
Yamashita Kisen Kaisha, Norton, Lilly & Co., Inc., 26 Beaver Street, New York 4, N.Y.
Chinese Maritime Trust, Ltd. (Orient Overseas Lines), Thor Eckert & Co., Inc., 19 Rector Street, New York 6, N.Y.
Meyer Heine Line, c/o Columbian Rope, Co. of the Philippines, Inc., Manila, Philippines
National Development Co., North American Maritime Agencies, 26 Broadway, New York, N.Y.
Zim Israel Navigation Co., Ltd., Mediterranean Agencies, Inc., 42 Broadway, New York 4, N.Y.
Dominion Navigation Co., Ltd., c/o C. F. Sharp & Co., Inc., Insular Life Building, Manila, Philippines

[F.R. Doc. 63-6369; Filed, June 17, 1963; 8:51 a.m.]

[No. 1015]

ATLANTIC AND GULF SINGAPORE, MALAYA AND THAILAND CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Atlantic and Gulf Singapore, Malaya and Thailand Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

ATLANTIC AND GULF-SINGAPORE, MALAYA AND THAILAND CONFERENCE (8240)

Member Lines

Hoegh Lines, Kerr Steamship Co., Inc., 51 Broad Street, New York 4, N.Y.
American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Compagnie Maritime des Chargeurs Reunis, Black Diamond Steamship Co., General Agents, 2 Broadway, New York, N.Y.
Fern-Ville Lines, Fearnley & Eger and A. F. Klaveness & Co., A/S 39 Broadway, New York 6, N.Y.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Kawasaki Kisen Kaisha, Ltd., Kerr Steamship Co., 51 Broad Street, New York 4, N.Y.
Lykes Bros. Steamship Co., Inc., 17 Battery Place, New York 4, N.Y.
A. P. Moller-Maersk Line, 67 Broad Street, New York 4, N.Y.
Malaya Indonesia Line, Joint Service, Funch, Edye & Co., Inc., General Agents, 25 Broadway, New York 4, N.Y.
Wilhelmsen Line, Barber Steamship Line, Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Isbrandtsen Steamship Co., Division of American Export Lines, Inc., 26 Broadway, New York 5, N.Y.

[F.R. Doc. 63-6370; Filed, June 17, 1963; 8:51 a.m.]

[No. 1017]

ATLANTIC AND GULF-INDONESIA CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Atlantic and Gulf-Indonesia Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

ATLANTIC AND GULF-INDONESIA CONFERENCE (8080)

Member Lines

American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Compagnie Maritime des Charguers Reunis, Black Diamond Steamship Co., 2 Broadway, New York, N.Y.
Fern-Ville Lines, Fearnley & Eger and A. F. Klaveness & Co., Fearnley & Eger, Inc., General Agents, 39 Broadway, New York 6, N.Y.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans 12, La.
Malaya Indonesia Line, Funch, Edye & Co., Inc., 25 Broadway, New York, N.Y.
A. P. Moller-Maersk Line, 67 Broad Street, New York 4, N.Y.
Wilhelmsen Line, 17 Battery Place, New York 4, N.Y.
Hoegh Lines, Kerr Steamship Co., Inc., 51 Broad Street, New York 4, N.Y.
Isbrandsten Steamship Co., Division of American Export Lines, Inc., 26 Broadway, New York 5, N.Y.

[F.R. Doc. 63-6371; Filed, June 17, 1963; 8:51 a.m.]

[No. 1018]

ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Association of West Coast Steamship Companies and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES (3302)

Member Lines

Compania Colombiana de Navegacion Maritima, S.A. (Coldemar Line), 17 Battery Place, New York 4, N.Y.
Compania Sud Americana de Vapores (Chilean Line), 29 Broadway, New York 6, N.Y.
Flota Mercante Grancolombiana, S.A., 79 Pine Street, New York 5, N.Y.
Grace Line Inc. (Grace Line), 3 Hanover Square, New York 4, N.Y.
Gulf and South American Steamship Co., Inc., 821 Gravier Street, New Orleans, La.
Kawasaki Kisen Kaisha, Ltd. ("K" Line) Kerr Steamship Co., 51 Broad Street, New York 4, N.Y.
Nedlloyd Line, 25 Broadway, New York 4, N.Y.
West Coast Line, 67 Broad Street, New York 4, N.Y.

[F.R. Doc. 63-6372; Filed, June 17, 1963; 8:51 a.m.]

[No. 1023]

FAR EAST CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or can-

cellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Far East Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

FAR EAST CONFERENCE (17)

Member Lines

American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Daido Kaiun Kaisha, Ltd., General Steamship Corp., Ltd., General Agents, 432 California Street, San Francisco 4, Calif.
Fern-Ville Lines, Fearnley & Eger and A. F. Klaveness & Co., A/S Fearnley & Eger, Inc., General Agents, 39 Broadway, New York 6, N.Y.
Iino Kaiun Kaisha, Ltd., Kerr Steamship Co., Inc., General Agents, 51 Broad Street, New York 4, N.Y.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Kawasaki Kisen Kaisha, Ltd., Kerr Steamship Co., Inc., General Agents, 51 Broad Street, New York 4, N.Y.
Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans 12, La.
Maritime Company of the Philippines, Inc., North American Maritime Agencies, General Agents, 26 Broadway, New York 4, N.Y.
Mitsubishi Kaiun Kaisha, Ltd., Oceanic Agencies, Inc., General Agents, 2 Broadway, New York 4, N.Y.
Mitsui Steamship Co., Ltd., Mitsui Line Agencies, Inc., General Agents, 17 Battery Place, New York 4, N.Y.
A. P. Moller-Maersk Line, 67 Broad Street, New York 4, N.Y.
Nippon Yusen Kaisha, Ltd., 25 Broadway, New York 4, N.Y.
Osaka Shosen Kaisha, Ltd., 17 Battery Place, New York 4, N.Y.
Shinnihon Steamship Co., Ltd., Texas Transport & Terminal Co., Inc., General Agents, 52 Broadway, New York 4, N.Y.
States Marine Lines, 90 Broad Street, New York 4, N.Y.
United Philippine Lines, Inc., Stockard Shipping Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
United States Lines Co. (American Pioneer Line), One Broadway, New York 4, N.Y.
Waterman Steamship Corp., 19 Rector Street, New York 6, N.Y.
Wilh. Wilhelmsen Interests, Barber Steamship Lines Inc., Agents, 17 Battery Place, New York 4, N.Y.
Yamashita Kisen Kaisha, Ltd. (The Yamashita Steamship Co., Ltd.), Norton, Lilly & Co., Inc., 26 Beaver Street, New York 4, N.Y.

[F.R. Doc. 63-6373; Filed, June 17, 1963; 8:52 a.m.]

[No. 1031]

NEW YORK FREIGHT BUREAU (HONG KONG)

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the New York Freight Bureau (Hong Kong) and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

NEW YORK FREIGHT BUREAU

Member Lines

American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Barber-Fern-Ville Lines, Fearnley & Eger and A. F. Klaveness & Co., 39 Broadway, New York 6, N.Y.
Daido Kaiun Kaisha, Ltd., General Steamship Corp., Ltd., General Agents, 432 California Street, San Francisco 4, Calif.
De La Rama Lines, 25 Broadway, New York 5, N.Y.
Iino Kaiun Kaisha, Kerr Steamship Co., Inc., General Agents, 51 Broad Street, New York 4, N.Y.
Kawasaki Kisen Kaisha, Ltd., Kerr Steamship Co., Inc., General Agents, 51 Broad Street, New York 4, N.Y.
Lykes Bros. S/S Co., Inc., 821 Gravier Street, New Orleans 12, La.
Marchessini Lines, P. D. Marchessini & Co., 26 Broadway, New York 4, N.Y.
Maritime Company of the Philippines, Inc., 149 California Street, San Francisco 11, Calif.
Mitsubishi Shipping Co., Ltd., Oceanic Agencies, Inc., Agents, 2 Broadway, New York 4, N.Y.
Mitsui Steamship Co., Ltd., Mitsui Line Agencies, Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Moller-Maersk Line, A.P., 67 Broad Street, New York, N.Y.
Nippon Yusen Kaisha, Ltd., 25 Broadway, New York 4, N.Y.
Osaka Shosen Kaisha, Ltd., 17 Battery Place, New York 4, N.Y.
Prince Line, Ltd., Furness, Withy & Co., 34 Whitehall Street, New York 4, N.Y.
States Marine Lines, 90 Broad Street, New York 4, N.Y.
United Philippine Lines, Inc., Stockard Shipping Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
United States Lines Co., 1 Broadway, New York 4, N.Y.
Waterman Steamship Corp., 19 Rector Street, New York 6, N.Y.
Yamashita Kisen Kaisha (The Yamashita SS Co., Ltd.), Norton, Lilly & Co., Inc., 26 Beaver Street, New York 4, N.Y.

[F.R. Doc. 63-6374; Filed, June 17, 1963; 8:52 a.m.]

[No. 1046]

WEST COAST OF ITALY, SICILIAN & ADRIATIC PORTS/NORTH ATLANTIC RANGE CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or can-

cellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the West Coast of Italy, Sicilian and Adriatic Ports/North Alantic Range Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

THE WEST COAST OF ITALY, SICILIAN AND ADRIATIC PORTS/NORTH ATLANTIC RANGE CONFERENCE (W.I.N.A.C.)

Member Lines

American Export Lines, Inc., 26 Broadway, New York 4, N.Y.
American President Lines, Ltd., 601 California Street, San Francisco 8, Calif.
Compagnie de Navigation Fraissinet et Cyprien Fabre (Fabre Line), Commander Shipping Co., Inc., General Agents, 17 State Street, New York 4, N.Y.
Concordia Line, Boise-Griffin Steamship Co., Inc., 90 Broad Street, New York 4, N.Y.
Dampskibsselskabet Torm, Torm Lines Agency, Ltd., 24 State Street, New York 4, N.Y.
Greek Line, Greek Line, Inc., General Agents, 8–10 Bridge Street, New York 4, N.Y.
Giacomo Costa Fu Andrea, Genova (Costa Line), Winchester & Co., J. H., Inc., General Agents, 19 Rector Street, New York 6, N.Y.
Hellenic Lines, Ltd., 39 Broadway, New York 6, N.Y.
"Italia" Societa Per Azioni di Navigazione (Italian Line), 24 State Street, New York 4, N.Y.
Jugoslavenska Linijska Plovidba (Jugolinija), Crossocean Shipping Co., Inc., 17 Battery Place, New York 4, N.Y.
Kulukundis Lines, Ltd., Star Line Agency, Inc., General Agents, 115 Broad Street, New York 4, N.Y.
Mitsui Steamship Co., Ltd. (Mitsui Line), 17 Battery Place, New York 4, N.Y.
A. P. Moller-Maersk Line, 67 Broad Street, New York 4, N.Y.
National Hellenic American Line, Home Lines General Agent, 42 Broadway, New York, N.Y.
Prudential Lines, Inc., 1 Whitehall Street, New York 4, N.Y.
Villain & Fassio e Compagnia Internazionale di Genova, Societa Riunite di Navigazione, S.p.A. (Fassio Line), Norton, Lilly & Co., Inc., General Agents, 26 Beaver Street, New York 4, N.Y.
Zim Israel Navigation Co., Ltd., Mediterranean Agencies, Inc., Agents, 42 Broadway, New York 4, N.Y.

[F.R. Doc. 63-6375; Filed, June 17, 1963; 8:52 a.m.]

[No. 1049]

UNITED STATES ATLANTIC & GULF/AUSTRALIA NEW ZEALAND CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the United States Atlantic and Gulf/Australia New Zealand Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

U.S. ATLANTIC AND GULF/AUSTRALIA NEW ZEALAND CONFERENCE (6200)

Member Lines

American & Australian Steamship Line, Norton, Lilly & Co., 26 Beaver Street, New York 4, N.Y.
Bank Line, Limited (The), 24 State Street, New York 4, N.Y.
Port and Associated Lines, Funch, Edye & Co., Inc., General Agents, 25 Broadway, New York 4, N.Y.
United States Lines Co. (American Pioneer Line), 1 Broadway, New York 4, N.Y.
Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft, Eggert, & Amsinch (Columbus Line), 26 Broadway, New York 6, N.Y.

[F.R. Doc. 63-6376; Filed, June 17, 1963; 8:53 a.m.]

[No. 1050]

TRANS-PACIFIC FREIGHT CONFERENCE (HONG KONG)

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Trans-Pacific Freight Conference (Hong Kong) and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon re-

spondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

TRANS-PACIFIC FREIGHT CONFERENCE (14–1)

Member Lines

American Mail Line, Ltd., 1010 Washington Building, Seattle, Wash.
American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Barber-Wilhelmsen Line, Barber Steamship Lines, Inc., Agents, 17 Battery Place, New York 4, N.Y.
Daido Kaiun Kaisha, Ltd., General Steamship Corp., Ltd., General Agents, 432 California Street, San Francisco 4, Calif.
De La Rama Lines, Punch, Edye & Co., General Agents, 25 Broadway, New York 4, N.Y.
Fern-Ville Lines, Fearnley & Eger and A. F. Klaveness & Co., A/S Fearnley & Eger, Inc., General Agents, 39 Broadway, New York 6, N.Y.
Iino Kaiun Kaisha, Ltd., Kerr Steamship Co., Inc., General Agents, 51 Broad Street, New York 4, N.Y.
Java Pacific & Hoegh Lines (Java Pacific Line, Inc., N.Y.), 25 Broadway, New York 4, N.Y.
Kawasaki Kisen Kaisha, Ltd., Kerr Steamship Co., Agent, 51 Broad Street, New York 4, N.Y.
Klaveness Line, Barber Lines, Inc., 17 Battery Place, New York, N.Y.
Knutsen Line, Boyd, Weir & Sewell, Inc., 24 State Street, New York 4, N.Y.
Maritime Co. of the Philippines, Inc., North American Maritime Agencies, 214 Front Street, San Francisco, Calif.
Mitsubishi Shipping Co., Ltd., Oceanic Agencies, Inc., 2 Broadway, New York 4, N.Y.
Mitsui Steamship Co., Mitsui Line Agencies, Inc., General Agents, 17 Battery Place, New York 4, N.Y.
A. P. Moller-Maersk Line, Moller Steamship Co., Inc., General Agents, 67 Broad Street, New York 4, N.Y.
Nippon Yusen Kaisha, Ltd., 25 Broadway, New York 4, N.Y.
Nissan Kisen Kaisha, Ltd., Olympic Steamship Co., General Agents, World Trade Center, San Francisco 11, Calif.
Osaka Shosen Kaisha, Ltd., 17 Battery Place, New York 4, N.Y.
P & O, Orient Lines, P & O Orient Lines, Inc., General Agents, 230 California Street, San Francisco 11, Calif.
Pacific Far East Line, Inc., 465 California Street, San Francisco 4, Calif.
Sploena Plovba, Crossocean Shipping Co., Inc., 17 Battery Place, New York 4, N.Y.
States Marine Lines (States Marine-Isthmian Agency, Inc., General Agents), 90 Broad Street, New York 4, N.Y.
States Steamship Co., 320 California Street, San Francisco, Calif.
Transocean Transport Corporation (Magsaysay Lines), Amerind Shipping Corp., General Agents, 17 Battery Place, New York 4, N.Y.
United Philippine Lines, Inc., Stockard Shipping Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
United States Lines Co. (American Pioneer Line), United States Lines, 1 Broadway, New York 4, N.Y.
Waterman Steamship Corp., 19 Rector Street, New York 6, N.Y.
Yamashita Kisen Kaisha (The Yamashita Steamship Co., Ltd.), Norton, Lilly & Co., Inc., 26 Beaver Street, New York 4, N.Y.
National Development Co., North American Maritime Agencies, 26 Broadway, New York, N.Y.

[F.R. Doc. 63–6377; Filed, June 17, 1963; 8:54 a.m.]

[No. 1051]

STRAITS/PACIFIC CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Straits/Pacific Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That, this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

STRAITS/PACIFIC CONFERENCE (7090)

Member Lines

A. P. Moller-Maersk Line, 67 Broad Street, New York 4, N.Y.
American Mail Line, Ltd., 1010 Washington Building, Seattle, Wash.
American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Ben Line Steamers, Ltd. (The), 10 North Saint David Street, Edinburgh, Scotland.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Isbrandtsen Steamship Co., Division of American Export Lines, Inc., 26 Broadway, New York 5, N.Y.
Java Pacific & Hoegh Lines, 25 Broadway, New York 4, N.Y.
Kawasaki Kisen Kaisha, Ltd., Kerr Steamship Co., Inc., 51 Broad Street, New York 4, N.Y.
Klaveness Line, Barber Lines, Inc., 17 Battery Place, New York, N.Y.
Mitsui Steamship Co. Ltd., Mitsui Line Agencies, Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Nippon Yusen Kaisha, 25 Broadway, New York 4, N.Y.
Nissan Kisen Kaisha, Ltd., Olympic Steamship Co., Inc., Pier 28, Seattle, Wash.
Osaka Shosen Kaisha Ltd., 17 Battery Place, New York 4, N.Y.

[F.R. Doc. 63–6378; Filed. June 17, 1963; 8:54 a.m.]

[No. 1052]

STRAITS/NEW YORK CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Straits/New York Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

STRAITS/NEW YORK CONFERENCE (6010)

Member Lines

Isbrandtsen Steamship Co., Division of American Export Lines, Inc., 26 Broadway, New York 5, N.Y.
American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Barber-Fern-Ville Lines, Fearnley & Eger and A. F. Klaveness & Co., A/S, 17 Battery Place, New York 4, N.Y.
Blue Funnel Line, U.S. Agents Funch, Edye & Co., Inc., 25 Broadway, New York 4, N.Y.
Compagnie Maritime des Chargeurs Reunis, Black Diamond SS Co., General Agents, 2 Broadway, New York, N.Y.
Hœgh Lines, Kerr Steamship Co., Inc., 51 Broad Street, New York 4, N.Y.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Kawasaki Kisen Kaisha Ltd. ("K" Line), Kerr Steamship Co., 51 Broad Street, New York 4, N.Y.
Lykes Bros. Steamship Co., Inc. (Lykes Orient Line), 821 Gravier Street, New Orleans 12, La.
Mitsui Steamship Co., Ltd., Mitsui S/S Co., 17 Battery Place, New York 4, N.Y.
A. P. Moller-Maersk Line, 67 Broad Street, New York 4, N.Y.
Nedlloyd Line, Joint Service, 25 Broadway, New York 4, N.Y.
Nippon Yusen Kaisha, 25 Broadway, New York 4, N.Y.
Prince Line, Ltd., Furness, Withy & Co., Ltd., 34 Whitehall Street, New York 4, N.Y.
Osaka Shosen Kaisha, Ltd., 17 Battery Place, New York 4, N.Y.

[F.R. Doc. 63-6379; Filed, June 17, 1963; 8:54 a.m.]

[No. 1055]

PACIFIC/STRAITS CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Pacific Straits Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

PACIFIC/STRAITS CONFERENCE (5680)

Member Lines

American Mail Line, Ltd., 1010 Washington Building, Seattle, Wash.
American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Java Pacific & Hœgh Lines, Java-Pacific Line, Inc., 25 Broadway, New York 4, N.Y.
Klaveness Line, Barber Lines, Inc., 17 Battery Place, New York 4, N.Y.
Moller-Maersk Line, A. P., 67 Broad Street, New York 4, N.Y.
Nissan Kisen Kaisha, Ltd., Olympic Steamship Co., Inc., Pier 28, Seattle, Wash.

[F.R. Doc. 63-6380; Filed, June 17, 1963; 8:56 a.m.]

[No. 1056]

PACIFIC INDONESIAN CONFERENCE

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the Pacific Indonesian Conference and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI, *Secretary.*

APPENDIX

PACIFIC/INDONESIAN CONFERENCE (6060)

Member Lines

American President Lines, Ltd., 601 California Street, San Francisco, Calif.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., 90 Broad Street, New York 4, N.Y.
Klaveness Line, Barber Lines, Inc., 17 Battery Place, New York 4, N.Y.
Knutsen Line, Boyd, Weir & Sewell, Inc., 24 State Street, New York 4, N.Y.
A. P. Moller-Maersk Line, 67 Broad Street, New York 4, N.Y.

[F.R. Doc. 63-6381; Filed, June 17, 1963; 8:56 a.m.]

[No. 1058]

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Exclusive Patronage (Dual Rate) Contract (Wine and Spirits Contract); Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive

patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the North Atlantic Westbound Freight Association and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI,
Secretary.

APPENDIX

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION (5850)

Member Lines

Anchor Line, Limited, Cunard Steamship Co., Ltd., 25 Broadway, New York 4, N.Y.
Armement Deppe S.A., Hansen & Tidemann Inc., Pere Marquette Building 1616, New Orleans, La.
Bristol City Line of Steamships, Ltd. (The), 1 Broadway, New York 4, N.Y.
Cunard Steamship Co., Ltd., 25 Broadway, New York 4, N.Y.
Furness, Withy & Co., Ltd., 310 Sansome Street, San Francisco 4, Calif.
Hamburg-Amerika Linie (Hamburg America Line), U.S. Navigation Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Irish Shipping, Ltd., Oceanic Agencies, 2 Broadway, New York 4, N.Y.
Manchester Liners, Ltd., Furness, Withy & Co., Ltd., 34 Whitehall Street, New York 4, N.Y.
Norddeutscher Lloyd, U.S. Navigation Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Ulster Steamship Co., Ltd. (Head Line and Lord Line), 10 Victoria Street, Belfast, Ireland
U.S. Lines Co. (U.S. Lines), 1 Broadway, New York 4, N.Y.
Isbrandtsen Steamship Co., 26 Broadway, New York 4, N.Y.

[F.R. Doc. 63-6382; Filed, June 17, 1963; 8:56 a.m.]

[No. 1059]

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Exclusive Patronage (Dual Rate) Contract; Order of Investigation and Hearing

The Commission has before it the approval, disapproval, modification or cancellation of the above amended exclusive patronage (dual rate) contract.

Therefore, it is ordered, That pursuant to sections 14(b) and 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine whether the form of said exclusive patronage (dual rate) contract meets the requirements of section 14(b), will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, and whether the use of said form of exclusive patronage (dual rate) contract should be permitted or said contract should be ordered modified in any respect whatsoever pursuant to section 14(b).

It is further ordered, That the North Atlantic Westbound Freight Association and its member lines as indicated in the Appendix below be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents specified in the Appendix below.

It is further ordered, That any persons, other than respondents who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington 25, D.C., on or before July 2, 1963.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission, April 9, 1963.

[SEAL] THOMAS LISI,
Secretary.

APPENDIX

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION (5850)

Member Lines

Anchor Line, Ltd., Cunard Steamship Co., Ltd., 25 Broadway, New York 4, N.Y.
Armement Deppe S.A., Hansen & Tidemann, Inc., Pere Marquette Building, 1616, New Orleans, La.
Bristol City Line of Steamships, Ltd. (The), 1 Broadway, New York 4, N.Y.
Cunard Steamship Co., Ltd., 25 Broadway, New York 4, N.Y.
Furness, Withy & Co., Ltd., 310 Sansome Street, San Francisco 4, Calif.
Hamburg-Amerika Linie (Hamburg America Line), U.S. Navigation Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Irish Shipping, Ltd., Oceanic Agencies, 2 Broadway, New York 4, N.Y.
Manchester Liners, Ltd., Furness, Withy & Co., Ltd., 34 Whitehall Street, New York 4, N.Y.
Norddeutscher Lloyd, U.S. Navigation Co., Inc., General Agents, 17 Battery Place, New York 4, N.Y.
Ulster Steamship Co., Ltd. (Head Line and Lord Line), 10 Victoria Street, Belfast, Ireland
U.S. Lines Co. (U.S. Lines), 1 Broadway, New York 4, N.Y.
Isbrandtsen Steamship Co. 26 Broadway, New York 4, N.Y.

[F.R. Doc. 63-6383; Filed, June 17, 1963; 8:56 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP63-280]

TOWN OF GATE, OKLAHOMA

Notice of Application for Order

JUNE 11, 1963.

Take notice that on April 10, 1963, the Town of Gate, Oklahoma (Applicant), filed in Docket No. CP63-280 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Cities Service Gas Company (Cities) to establish physical connection of its transmission facilities with the proposed facilities of, and to sell natural gas to Applicant for resale and distribution in the Town of Gate and environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests that Cities be directed to tap their transmission pipeline at a point approximately 3200 feet north of the town limits and to provide a regulation station at such point where Applicant can connect its proposed transmission line. Applicant proposes to install a 2½" natural gas transmission pipeline extending 3200 feet from the tap on Cities' line to the north town limits. Concurrently, it plans to construct a natural distribution system and appurtenances in the town to serve businesses and homes located therein. The transmission and distribution facilities will be owned and operated by Applicant.

It is estimated that the total cost of all construction by Applicant will come to $24,760.44 to be financed by the issuance of some $25,000 worth of bonds.

The application indicates that the estimated third year annual requirements would be 13,930 Mcf, while the estimated third year daily requirements would be 124.3 Mcf.

On April 29, 1963, Cities filed an answer to the subject application stating that it did not object to rendering the requested service.

Protests, petitions to intervene or requests for hearing in this proceeding may

be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 8, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-6366; Filed, June 17, 1963; 8:50 a.m.]

[Project 2363]

NORTHWEST PAPER CO.

Notice of Application for License

JUNE 11, 1963.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by The Northwest Paper Company (correspondence to: Mace V. Harris, Vice President and Manager of Operations, The Northwest Paper Company, Cloquet, Minnesota) for license for constructed Project No. 2363, known as the Cloquet Project, located on the St. Louis River, in the City of Cloquet, Carlton County, Minnesota.

The project consists of: a concrete gravity dam about 47 feet high and about 369 feet long; a reservoir having little storage capacity; a powerhouse containing a 2500 horsepower turbine connected to a 2250 kva generator, two 1250 horsepower turbines each connected to an 1100 kva generator, a 600 horsepower turbine connected to a 500 kva generator an 880 horsepower turbine connected to an 800 kva generator, and a 1210 horsepower turbine connected to an 1100 kva generator, and appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is July 29, 1963. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-6367; Filed, June 17, 1963; 8:50 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

ACTING REGIONAL ADMINISTRATOR, REGION VII (PUERTO RICO AND VIRGIN ISLANDS)

Designation of Officers to Act in Place of Administrator

The officers appointed to the following listed positions in Region VII are hereby designated to act in the place and stead of the Regional Administrator for Region VII, with the title of "Acting Regional Administrator" and with all the powers, functions, duties, and responsibilities delegated or assigned to the Regional Administrator, during the absence or disability of the Regional Administrator, provided that no officer shall have authority to act as "Acting Regional Administrator" unless all those whose titles appear before his in this designation are unable to act by reason of absence or disability:

1. Deputy Regional Administrator.
2. Regional Director of Community Facilities.
3. Regional Director of Urban Renewal.
4. Regional Counsel.

This designation supersedes the designation effective February 21, 1963 (28 F.R. 1701) which is hereby revoked.

(Housing and Home Finance Administrator's delegation effective May 4, 1962 (27 F.R. 4319, May 4, 1962))

Effective as of the 18th day of June 1963.

[SEAL] ELISEO G. FONT,
Regional Administrator,
Region VII.

[F.R. Doc. 63-6386; Filed, June 17, 1963; 8:57 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 819]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 13, 1963.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 65811. By order of June 11, 1963, the Transfer Board approved the transfer to Champaign Transfer and Storage Company, Inc., Champaign, Ill., of certificate in No. MC 66299, issued March 21, 1941, to John Doran, doing business as Champaign Transfer & Storage, Champaign, Ill., authorizing the transportation of: Household goods, between Champaign and Urbana, Ill., on the one hand, and, on the other, points in Illinois and Indiana. Chester E. Keller, First National Bank Building, Champaign, Ill., attorney for applicants.

No. MC-FC 65814. By order of June 11, 1963, the Transfer Board approved the transfer to Edward J. McCabe, doing business as E. J. McCabe Co., Watertown, Mass., of certificate in No. MC 32909, issued December 6, 1956, to Milton W. Jones, doing business as W. E. Withrow, South Boston, Mass., authorizing the transportation of: Household goods, between Lynn, Mass., and points in Massachusetts within 20 miles thereof, on the one hand, and, on the other, points in Massachusetts, New Hampshire, Maine, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and the District of Columbia. Arthur A. Wentzell, Post Office Box 720, Worcester 1, Mass., practitioner for applicants.

No. MC-FC 65953. By order of June 11, 1963, the Transfer Board approved the transfer to Roscoe Kern, doing business as Kern Transport Lines, Muncie, Ind., of certificate in No. MC 52847, and permit in No. MC 32045, each issued May 18, 1950, to Lance Motor Transportation, Inc., Chicago, Ill., the certificate authorizing the transportation of: general commodities, with the usual exceptions including household goods and commodities in bulk, between points in the Chicago, Ill., commercial zone, the permit authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business; from Chicago, Ill., to points in specified parts of Indiana and Illinois. Joseph H. Scanlan, 111 West Washington Street, Chicago 2, Ill., attorney for applicants.

No. MC-FC 65957. By order of June 11, 1963, the Transfer Board approved the transfer to Maurice A. Hansen, West Haven, Conn., of certificate in No. MC 4291, issued January 11, 1941, to Paul Klein, doing business as Klein Bros., New Haven, Conn., authorizing the transportation of: Household goods, over irregular routes, between New Haven, Conn., and points within 10 miles thereof, on the one hand, and, on the other, points in New York and New Jersey; radio cabinets and empty cigar boxes, from New York, N.Y., to New Haven, Conn.; and empty cigar-box cartons, from New Haven, Conn., to New York, N.Y. Israel Hillman, 152 Temple Street, New Haven 10, Conn., attorney for applicants.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 63-6358; Filed, June 17, 1963; 8:49 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

KLAUS APFELBAUM

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended,

notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Klaus Apfelbaum, General Delivery, Stuttgart 7, Germany; Claim No. 40791, Vesting Order No. 1813; $313.75 in the Treasury of the United States and an undivided 2/13th interest in the securities described below:

Fifty (50) shares of Aztec Silver-Gold Mining Company $1 par value capital stock, evidenced by Certificate No. 141 for 50 shares; two hundred fifty (250) shares of Transvaal Copper Mines Company of Utah $5 par value common stock, evidenced by Certificate No. 637 for 250 shares; two hundred (200) shares of the Arizona Consolidated Mines Company $10 par value capital stock, evidenced by Certificate No. 1102 for 200 shares.

The above securities are located in the Office of Alien Property, Department of Justice, 101 Indiana Avenue NW., Washington 25, D.C.

Executed at Washington, D.C., on June 11, 1963.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 63-6349; Filed, June 17, 1963; 8:47 a.m.]

JOSEPH DOLINAJ

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses and also subject to the provisions of Treasury Circular No. 655, as amended, 31 CFR 211.3 and of Executive Order No. 8389, as amended, 5 F.R. 1400, 6 F.R. 2897.

Claimant, Claim No. Property, and Location

Joseph Dolinaj, Konska, Kamenna Poruba, Okres Zilina, Czechoslovakia; Claim No. 42632, Voluntary Turnover (Account No. 27-100341); $1,123.55 in the Treasury of the United States.

Executed at Washington, D.C., on June 11, 1963.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 63-6350; Filed, June 17, 1963; 8:48 a.m.]

JULIANNA GLOVACKI

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses and also subject to the provisions of Treasury Circular No. 655, as amended, 31 CFR 211.3, and of Executive Order No. 8389, as amended, 5 F.R. 1400, 6 F.R. 2897:

Claimant, Claim No., Property, and Location

Julianna Glovacki, 161 Surova, Barca, District of Kosice, Czechoslovakia; Claim No. 39440, Vesting Order No. 855; $413.23 in the Treasury of the United States.

Executed at Washington, D.C., on June 12, 1963.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 63-6351; Filed, June 17, 1963; 8:48 a.m.]

BLAZENA NOVOTNA ET AL.

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses and also subject to the provisions of Treasury Circular No. 655, as amended, 31 CFR 211.3 and of Executive Order No. 8389, as amended, 5 F.R. 1400, 6 F.R. 2897.

Claimant, Claim No., Property, and Location

Mrs. Blazena Novotna, Leninova Street 391, Policka, Czechoslovakia; $378.88 in the Treasury of the United States.

Mrs. Anna Smela, Hegrova Street 160, Policka, Czechoslovakia; $378.88 in the Treasury of the United States.

Mrs. Marie Vaskova, Vraji 1184, Pardubice, Czechoslovakia; $378.88 in the Treasury of the United States.

Ludvik Loub, 32 Svratka, Czechoslovakia; $378.88 in the Treasury of the United States.

Claim No. 29779; Voluntary Turnover (Account No. 17-100568).

Executed at Washington, D.C., on June 12, 1963.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 63-6352; Filed, June 17, 1963; 8:48 a.m.]

ANDREJ SEDLAK ET AL.

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses, and also subject to the provisions of Treasury Circular No. 655, as amended, 31 CFR 211.3, and of Executive Order No. 8389, as amended, 5 F.R. 1400, 6 F.R. 2897:

Claimant, Claim No., Property, and Location

Andrej Sedlak, Sebastovce 79, District Kosice, Czechoslovakia; Claim No. 33337; $413.23 in the Treasury of the United States.

Jozef Acal, Sebastovce c. 54, Okr. Kosice, Czechoslovakia; $413.22 in the Treasury of the United States.

Alzbeta Schmutzova, Blatna ulica c. 13, Kosice, Czechoslovakia; $413.22 in the Treasury of the United States.

Claim No. 36152, Vesting Order No. 855.

Executed at Washington, D.C., on June 12, 1963.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 63-6353; Filed, June 17, 1963; 8:48 a.m.]

EDITH SCHMAELZ

Amended Notice of Intention To Return Vested Property

The notice of intention to return vested property to Mrs. Adele Exner, which was published in the FEDERAL REGISTER on February 15, 1962 (27 F.R. 1442) is hereby amended to read as follows:

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Mrs. Edith Schmaelz, Speisingerstrasse 222, Vienna 23, Mauer, Austria; Claim No. 40089, Vesting Order No. 6215; $87.30 in the Treasury of the United States.

Executed at Washington, D.C., on June 12, 1963.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 63-6354; Filed, June 17, 1963; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—JUNE

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during June.